RNI No. MAHBIL /2009/31744
Reg. No. MH/MR/South-318/2013-15

सत्यमेव जयते

महाराष्ट्र शासन राजपत्र

भाग एक–ल

वर्ष ६, अंक २१] गुरुवार ते बुधवार, ऑगस्ट ७-१३, २०१४/श्रावण १६-२२, शके १९३६ [पृष्ठे १०३, किंमत : रुपये २३.००

प्राधिकृत प्रकाशन

(केंद्रीय) औद्योगिक विवाद अधिनियम व मुंबई औद्योगिक संबंध अधिनियम यांखालील (भाग एक, चार-अ, चार-ब आणि चार-क यांमध्ये प्रसिद्ध केलेल्या अधिसूचना, आदेश व निवाडे यांव्यतिरिक्त) अधिसूचना, आदेश व निवाडे.

BEFORE THE MEMBER, INDUSTRIAL COURT, MAHARASHTRA AT KOLHAPUR

COMPLAINT (ULP) No. 240 OF 2002.—Shri Govind Ramchandra Mali, R/o. Korochi, C/o. Prashant Photo Studio (Amol Bakery), Taluka Hatkanangale, Dist. Kolhapur.—*Complainant.—Versus*—Deshabhakta Ratnappa Kumbhar Panchanganga Sahakari Sakhar Karkhana Ltd., Ganganagar, Ichalkaranji, Kolhapur through Managing Director.—*Respondent.*

In the matter of complaint under section 28(1) read with Items 9 and 10 of Sch. IV of the M.R.T.U. and P.U.L.P. Act, 1971.

CORAM.—C. A. Jadhav, Member.

Appearances.—Shri. A. D. Patil, Advocate for the Petitioner.

Shri. M. S. Topkar & D. N. Patil, Advocate for the Respondent.

Judgement

(Dated the 28th February 2003)

1. This is a complaint under section 28(*1*) read with Items 9 and 10 of Sch. IV of the M.R.T.U. and P.U.L.P. Act, 1971.

2. Admittedly, the Complainant was in employment of the Respondent Sugar Factory from 1970. He was working on the post of 'Machinist' in the year 2002. He tendered his resignation dated 10th May 2002 stating that he wishes to resign after one month *i.e.* with effect from 10th May 2002. The sugar factory accepted the same with effect from 10th May 2002 and asked him to immediately collect final payment from its office, *vide* reply dated 17th April 2002. It is also admitted position that there is an Award by name 'Sharad Pawar Award' whereby employees of the sugar factory are entitled to more wages and past difference thereof.

3. It is case of the Complainant that the sugar factory is bound by Sharad Pawar Award. The sugar factory paid Rs. 500 to him as an interim relief and the remaining amount payable to him as per the Award, is not paid. Besides, he requested the sugar factory, after his retirement, to disburse retirement benefits, like gratuity, unpaid bonus, leave salary etc. But the sugar factory failed. In fact, the sugar factory has issued 'No Dues Certificate' to him on 14th March 2002 but has failed to discharge its statutory obligation to disburse all retirement benefits. Sugar factory's failure to discharge legal obligations, amounts to an unfair labour practice under Items 9 and 10 of Sch. IV of the M.R.T.U. and P.U.L.P. Act. Finally, the Complainant has prayed for requisite declaration of unfair labour practice, direction to disburse all his retirement benefits such as difference of wages as per Sharad Pawar Award, gratuity, bonus, leave salary etc. alongwith interest of 18% per annum and other consequential reliefs.

4. The sugar factory filed its written statement at Exh. C-3 and traversed all material allegations made by the Complainant. It contended that the Complainant is not an 'employee' as per definition under section 3(5) of the M.R.T.U. and P.U.L.P. Act and hence, the Complainant has to prove his status as an 'employee'.

5. It is case of the sugar factory that the Complainant cannot claim wages, difference of wages as per Sharad Pawar Award and all other retirement benefits under the M.R.T.U. and P.U.L.P. Act, presuming and converting this complaint to be a recovery proceeding. Every illegality is not an unfair labour practice. Besides, gratuity payable to him cannot be recovered under the provisions of the M.R.T.U. and P.U.L.P. Act. Finally, it contended that it has not indulged into any unfair labour practice and prayed for dismissal of the complaint.

6. Considering rival pleadings, I framed following issues at Exh. O-1. I must also state at this stage itself that none of the parties led oral evidence and both Advocates submitted that the complaint be decided after hearing them. Accordingly, I heard them :

(*i*) Whether the complaint is maintainable under provisions of the M.R.T.U. and P.U.L.P. Act ?

(*ii*) Does the Complainant prove that the Respondent sugar factory is bound by the directions of Sharad Pawar Award ?

(*iii*) Does the Complainant prove that the Respondent sugar factory has indulged into unfair labour practice under Items 9 and 10 of Sch. IV of the M.R.T.U. and P.U.L.P. Act ?

(*iv*) What order ?

7. My findings, on above issues, are as under :—

(*i*) Yes.

(*ii*) Yes.

(*iii*) Yes, under Item 9 of Sch. IV of the M.R.T.U. and P.U.L.P. Act.

(*iv*) The Complaint is allowed.

Reasons

8. It is not in dispute that Complainant's resignation was accepted unconditionally and then he retired. It is also not in dispute that the sugar factory is bound by Sharad Pawar Award. It is not case of the sugar factory that some amount is to be recovered from the Complainant. On the contrary, it has issued 'No Dues Certificate' to him. Thus, it is an admitted position that the Complainant is legally entitled to difference of wages as per Sharad Pawar Award and all other retirement benefits. Besides, there is no legal impediment for the sugar factory to disburse the difference of wages and all other retirement benefits to the Complainant. The sugar factory has mainly came with a case that the Complainant cannot resort to provisions of the M.R.T.U. and P.U.L.P. Act to espouse his grievances.

9. Shri. Patil learned Advocate representing the sugar factory filed written arguments (Exh. C-4) and made oral submissions as well. He contended that the Payment of Bonus Act and the Payment of Gratuity Act are self-sufficient Codes having independant remedies thereunder and hence, the Complainant cannot resort to provisions of the M.R.T.U. and P.U.L.P. Act for recovery of all retirement benefits. There is no Award, settlement or agreement as contemplated under Item 9 of Sch. IV of the M.R.T.U. and P.U.L.P. Act and hence, question of failure thereof, does not arise. He then explained that Sec. 32 of the M.R.T.U. and P.U.L.P. Act cannot enlarge jurisdiction of the Court due beyond what is conferred upon it by its other provisions. In support of his arguments, he relied upon decision of Bombay High Court in Indian Seamless Metal Tubes Ltd., Ahmednagar *Vs.* Sunil Rambhau Iwale and Other reported in 2000(91) FLR at p.1079. He further explained that decision in Carona Ltd., *Vs.* Sitaram Ghag reported in 2000 II CLR at p. 295 is not applicable here, as there was a voluntary retirement scheme of the Company which is an Agreement between the parties.

10. Shri A. D. Patil, learned Advocate representing the Complainant countered above arguments and replied that the sugar factory is bound by Sharad Pawar Award and there is no reason whatsoever for failure to discharge obligation thereunder. Same is case regarding failure to disburse retirement benefits. He further argued that the main relief is declaration of an unfair labour practice and direction to pay retirement benefits is a consequential relief under section 30 of the M.R.T.U. and P.U.L.P. Act. This is not a case of execution and/or recovery. In support of his arguments, he relied upon decision in Carnoa Ltd. *Vs.* Sitaram Ghag reported in 2000 II CLR at p.295.

11. Sub-Clause (*a*) of Clause (*1*) of Sec. 30 of the M.R.T.U. and P.U.L.P. Act, 1971 gives jurisdiction to declare that an unfair labour practice has been engaged in or is being engaged in. Sub-Clause (*b*) thereof empowers the Court to give further directions. Likewise, Sec. 32 of the M.R.T.U. and P.U.L.P. Act empowers the Court to decide all connected matters. In my judgment, therefore, the Court while entertaining a complaint under the M.R.T.U. and P.U.L.P. Act, has to decide first as to whether a person has been engaged in or is being engaged in an unfair labour practice, may give a declaration of an unfair labour practice, further give a requisite direction and can decide all connected matters thereof. It is settled law that no directions can be given unless a Court first comes to the conclusion that an unfair labour practice has been engaged in or is being engaged in. In other words, declaration of an unfair labour practice is a sine-quo-non for giving directions.

12. It is held in S. G. Chemicals & Dyes Trading Employees Union *Vs.* S. G. Chemicals and Dyes Trading Ltd., reported in 1986 Lab. IC at p.863 that Non-compliance of statutory provisions will be regarded as an unfair labour practice under Item 9 of Sch. IV of the M.R.T.U. and P.U.L.P. Act. Competent Authorities under the Payment of Gratuity Act can not give declaration of an unfair labour practice and then grant consequential relief as provided under section 30 of the M.R.T.U. and P.U.L.P. Act. Competent Authorities under the Payment of Gratuity Act can not give declaration of an unfair labour practice and then grant consequential relief as provided under section 30 of the M.R.T.U. and P.U.L.P. Act. This is not a complaint or an Application for execution and/or recovery of gratuity and other retirement benefits.

13. The word 'Agreement' in Item 9 of Sch. IV of the M.R.T.U. and P.U.L.P. Act cannot be viewed strictly in the sense in which it is understood in Law of Contract. Such observations are made by Division Bench of Honourable Bombay High Court in Dattatraya Shankarrao Kharade and Others *Vs.* Executive Engineer reported in 1994 I CLR at p.1022. It is observed in S. G. Chemical's case (referred above) that provisions of law creating rights, obligations and duties can be held to be 'implied terms' of the contract. It is held in Oswal Petro Chemicals *Vs.* Govt. of Maharashtra reported in 1977 II CLR at p.472 that the word 'agreement' cannot be considered

in a narrow sense, it is the requirement of law that an employer shall pay minimum wages and non-payment of minimum wages at the notified rate must be held to be an act of unfair labour practice covered by Item 9 of Sch. IV of M.R.T.U. and P.U.L.P. Act. I must also state that purpose of the M.R.T.U. and P.U.L.P. Act is to provide for the prevention of unfair labour practice and to constitute independant machinery to carry out the purpose of the Act. Besides, the Sharad Pawar Award is binding on the sugar factory and thereis no legal justification for refusal to disburse benefits thereof to the Complainant.

14. In the present case, very relief of declaration of unfair labour practice is the principal relief and directions to pay Gratuity and other retirement benefits are the consequential reliefs. It is categorically observed in Carona's case that once the Court comes to the conclusion that unfair labour practice has been committed, it is entitled to issue directions under section 30 of the Act to abate the unfair labour practice. It is further observed that these directions for abatement cannot be said to be proceedings for recovery of payment of gratuity.

15. In the background of above discussions, it has to be held that the Complainant can well resort to provisions of the M.R.T.U. and P.U.L.P. Act and the complaint is maintainable. Accordingly, I answer Issue No. 1 in the affirmative.

16. The sugar factory is bound by directions of Sharad Pawar Award. The same is clearly 'an award, settlement or an agreement' as contemplated under Item 9 of Sch. IV of the M.R.T.U. and P.U.L.P. Act. Likewise, it is under statutory obligation to disburse retirement benefits to the Complainant. Sugar factory's plea that the Complainant can resort to machinery under the Payment of Gratuity Act as well as the Payment of Bonus Act, is unsustainable, as the complaint is maintainable. However, it is disowning its statutory obligations on unsustainable pleas. Thus, failure to disburse benefits of Sharad Pawar Award as well as retirement benefits to the Complainant is contrary to service conditions and thus, an unfair labour practice under Item-9 of Sch. IV of the M.R.T.U. and P.U.L.P. Act. Accordingly, I answer Issues Nos. 2 and 3 in the affirmative.

17. To summarise, declaration of unfair labour practice is the principal relief and directions to disburse benefits of Sharad Pawar Award as well as retirement benefits, are consequential one. As such, the complaint is maintainable under the M.R.T.U. and P.U.L.P. Act. Sugar Factory's refusal to disburse all such benefits is altogether unjustifiable, contrary to the service conditions and is unfair labour practice. Consequently, the complaint needs to be allowed.

18. To conclude, I pass following order :—

Order

(*i*) The complaint is allowed.

(*ii*) It is declared that the Respondent-sugar factory has engaged in unfair labour practice under Item 9 of Sch. IV of the M.R.T.U. and P.U.L.P. Act, 1971.

(*iii*) The Respondent sugar factory is directed to cease and desist from engaging in such unfair labour practice forthwith.

(*iv*) The Respondent-sugar factory is directed to disburse difference of wages as per Sharad Pawar Award and all retirement benefits to the Complainant, within 15 days from today.

(*iii*) Parties shall bear their own costs.

C. A. JADHAV,
Member,
Industrial Court, Kolhapur.

Kolhapur,
Dated the 28th February 2003

V. D. PARDESHI,
Asstt. Registrar,
Industrial Court, Kolhapur.

BEFORE THE INDUSTRIAL COURT, MAHARASHTRA AT KOLHAPUR

COMPLAINT (ULP) No. 238 OF 2002.—Shri. Bharamu Bandu Amannawar, R/o. Boragaon, Tal. Chikodi, District Belgaum.—*Complainant.*—*Versus*—Deshabhakta Ratnappa Kumbhar Panchanganga Sahakari Sakhar Karkhana Ltd., Ganganagar, Ichalkaranji, Dist. Kolhapur through Managing Director.—*Respondent.*

In the matter of complaint under section 28(1) read with Items 9 and 10 of Sch. IV of the M.R.T.U. and P.U.L.P. Act.

CORAM.—C. A. Jadhav, Member.

Appearances.—Shri. A. D. Patil, Advocate for the Petitioner.

Shri. M. S. Topkar & D. N. Patil, Advocate for the complainant.

Judgement

1. This is a complaint under section 28(*1*) read with Items 9 and 10 of Sch. IV of the M.R.T.U. and P.U.L.P. Act.

2. Admittedly, the Complainant was in employment of the Respondent-Sugar Factory from 15th November 1971. He was working on the post of 'Pan-In-charge' in the year 2002. He tendered his resignation dated 14th March 2002 stating that he wishes to resign after one month *i.e.* with effect from 15th April 2002. The sugar factory accepted the same with effect from 18th March 2002 and asked him to immediately collect final payment from its office, *vide* reply dated 18th March 2002. It is also admitted position that there is an Award by name 'Sharad Pawar Award' whereby employees of the sugar factory are entitled to more wages and past difference thereof.

3. It is case of the Complainant that the sugar factory is bound by 'Sharad Pawar Award'. The sugar factory paid Rs. 500 to him as an interim relief and the remaining amount payable to him as per the Award, is not paid. Besides, he requested the sugar factory, after his retirement, to disburse retirement benefits, like gratuity, unpaid bonus, leave salary etc. But the sugar factory failed. In fact, the sugar factory has issued 'No Dues Certificate' to him on 22nd March 2002 but has failed to discharge its statutory obligation to disburse all retirement benefits. Sugar factory's failure to discharge legal obligations, amounts to an unfair labour practice under Items 9 and 10 of Sch. IV of the M.R.T.U. and P.U.L.P. Act. Finally, the Complainant has prayed for requisite declaration of unfair labour practice, direction to disburse all his retirement benefits such as difference of wages as per Sharad Pawar Award, gratuity, bonus, leave salary etc. alongwith interest of 18% per annum and other consequential reliefs.

4. The sugar factory filed its written statement at Exh. C-3 and traversed all material allegations made by the Complainant. It contended that the Complainant is not an 'employee' as per definition under section 3(5) of the M.R.T.U. and P.U.L.P. Act and hence, the Complainant has to prove his status as an 'employee'.

5. It is case of the sugar factory that the Complainant cannot claim wages, difference of wages as per Sharad Pawar Award and all other retirement benefits under the M.R.T.U. and P.U.L.P. Act, presuming and converting this complaint to be a recovery proceeding. Every illegality is not an unfair labour practie. Besides, gratuity payable to him cannot be recovered under the provisions of the M.R.T.U. and P.U.L.P. Act. Finally, it contended that it has not indulged into any unfair labour practice and prayed for dismissal of the complaint.

6. Considering rival pleadings, I framed following issues at Exh. O-3. I must also state at this stage itself that none of the parties led oral evidence and both Advocates submitted that the complaint be decided after hearing them. Accordingly, I heard them :—

(*i*) Whether the complaint is maintainable under provisions of the M.R.T.U. and P.U.L.P. Act ?

(*ii*) Does the Complainant prove that the Respondent sugar factory is bound by the directions of 'Sharad Pawar Award' ?

(*iii*) Does the Complainant prove that the Respondent sugar factory has indulged into unfair labour practice under Items 9 and 10 of Sch. IV of the M.R.T.U. and P.U.L.P. Act ?

(*iv*) What order ?

7. My findings, on above issues, are as under :—

(*i*) Yes.

(*ii*) Yes.

(*iii*) Yes, under Item 9 of Sch. IV of the M.R.T.U. and P.U.L.P. Act.

(*iv*) The Complaint is allowed.

Reasons

8. It is not in dispute that Complainant's resignation was accepted unconditionally and then he retired. It is also not in dispute that the sugar factory is bound by 'Sharad Pawar Award'. It is not case of the sugar factory that some amount is to be recovered from the Complainant. On the contrary, it has issued 'No Dues Certificate' to him. Thus, it is an admitted position that the Complainant is legally entitled to difference of wages as per 'Sharad Pawar Award' and all other retirement benefits. Besides, there is no legal impediment for the sugar factory to disburse the difference of wages and all other retirement benefits to the Complainant. The sugar factory has mainly came with a case that the Complainant cannot resort to provisions of the M.R.T.U. and P.U.L.P. Act to espouse his grievances.

9. Shri. Patil, learned Advocate representing the sugar factory filed written arguments (Exh. C-4) and made oral submissions as well. He contended that the Payment of Bonus Act and the Payment of Gratuity Act are self-sufficient Codes having independant remedies thereunder and hence, the Complainant cannot resort to provisions of the M.R.T.U. and P.U.L.P. Act for recovery of all retirement benefits. There is no Award, settlement or agreement as contemplated under Item 9 of Sch. IV of the M.R.T.U. and P.U.L.P. Act and hence, question of failure thereof, does not arise. He then explained that Sec. 32 of the M.R.T.U. and P.U.L.P. Act cannot enlarge jurisdiction of the Court due beyond what is conferred upon it by its other provisions. In support of his arguments, he relied upon decision of Bombay High Court in Indian Seamless Metal Tubes Ltd., Ahmednagar *Vs.* Sunil Rambhau Iwale and Other reported in 2000(91) FLR at p.1079. He further explained that decision in Carona Ltd., *Vs.* Sitaram Ghag reported in 2000 II CLR at p. 295 is not applicable here, as there was a voluntary retirement scheme of the Company which is an Agreement between the parties.

10. Shri. A. D. Patil, learned Advocate representing the Complainant countered above arguments and replied that the sugar factory is bound by Sharad Pawar Award and there is no reason whatsoever for failure to discharge obligation thereunder. Same is case regarding failure to disburse retirement benefits. He further argued that the main relief is declaration of an unfair labour practice and direction to pay retirement benefits is a consequential relief under section 30 of the M.R.T.U. and P.U.L.P. Act. This is not a case of execution and/or recovery. In support of his arguments, he relied upon decision in Carnoa Ltd. *Vs.* Sitaram Ghag reported in 2000 II CLR at p.295.

11. Sub-Clause (*a*) of Clause (*1*) of Sec. 30 of the M.R.T.U. and P.U.L.P. Act, 1971 gives jurisdiction to declare that an unfair labour practice has been engaged in or is being engaged in. Sub-Clause (*b*) thereof empowers the Court to give further directions. Likewise, Sec. 32 of the M.R.T.U. and P.U.L.P. Act, 1971 empowers the Court to decide all connected matters. In my judgment, therefore, the Court while entertaining a complaint under the M.R.T.U. and P.U.L.P. Act, has to decide first as to whether a person has been engaged in or is being engaged in an unfair labour practice, may give a declaration of an unfair labour practice, further give a requisite direction and can decide all connected matters thereof. It is settled law that no directions can be given unless a Court first comes to the conclusion that an unfair labour practice has been engaged in or is being engaged in. In other words, declaration of an unfair labour practice is a *sine-quo-non* for giving directions.

12. It is held in S. G. Chemicals & Dyes Trading Employees Union *Vs.* S. G. Chemicals and Dyes Trading Ltd., reported in 1986 Lab. IC at p.863 that Non-compliance of statutory provisions will be regarded as an unfair labour practice under Item 9 of Sch. IV of the M.R.T.U. and P.U.L.P. Act. Competent Authorities under the Payment of Gratuity Act can not give declaration of an unfair labour practice and then grant consequential relief as provided under section 30 of the M.R.T.U. and P.U.L.P. Act. This is not a complaint or an Application for execution and/ or recovery of gratuity and other retirement benefits.

13. The word 'Agreement' in Item 9 of Sch. IV of the M.R.T.U. and P.U.L.P. Act cannot be viewed strictly in the sense in which it is understood in Law of Contract. Such observations are made by Division Bench of Honourable Bombay High Court in Dattatraya Shankarrao Kharde and Others *Vs.* Executive Engineer reported in 1994 I CLR at p.1022. It is observed in S. G. Chemical's case (referred above) that provisions of law creating rights, obligations and duties can be held to be 'implied terms' of the contract. It is held in Oswal Petro Chemicals *Vs.* Govt. of Maharashtra reported in 1977 II CLR at p.472 that the word 'agreement' cannot be considered in a narrow sense, it is the requirement of law that an employer shall pay minimum wages and non-payment of minimum wages at the notified rate must be held to be an act of unfair labour practice covered by Item 9 of Sch. IV of M.R.T.U. and P.U.L.P. Act. I must also state that purpose of the M.R.T.U. and P.U.L.P. Act is to provide for the prevention of unfair labour practice and to constitute independant machinery to carry out the purpose of the Act. Besides, the Sharad Pawar Award is binding on the sugar factory and thereis no legal justification for refusal to disburse benefits thereof to the Complainant.

14. In the present case, very relief of declaration of unfair labour practice is the principal relief and directions to pay Gratuity and other retirement benefits are the consequential reliefs. It is categorically observed in Carona's case that once the Court comes to the conclusion that unfair labour practice has been committed, it is entitled to issue directions under section 30 of the Act to abate the unfair labour practice. It is further observed that these directions for abatement cannot be said to be proceedings for recovery of payment of gratuity.

15. In the background of above discussions, it has to be held that the Complainant can well resort to provisions of the M.R.T.U. and P.U.L.P. Act and the complaint is maintainable. Accordingly, I answer Issue No. 1 in the affirmative.

16. The sugar factory is bound by directions of ' Sharad Pawar Award '. The same is clearly 'an award, settlement or an agreement' as contemplated under Item 9 of Sch. IV of the M.R.T.U. and P.U.L.P. Act. Likewise, it is under statutory obligation to disburse retirement benefits to the Complainant. Sugar factory's plea that the Complainant can resort to machinery under the Payment of Gratuity Act as well as the Payment of Bonus Act, is unsustainable, as the complaint is maintainable. However, it is disowning its statutory obligations on unsustainable pleas. Thus, failure to disburse benefits of ' Sharad Pawar Award ' as well as retirement benefits to the Complainant is contrary to service conditions and thus, an unfair labour practice under Item-9 of Sch. IV of the M.R.T.U. and P.U.L.P. Act. Accordingly, I answer Point Nos. 2 and 3 in the affirmative.

17. To summarise, declaration of unfair labour practice is the principal relief and directions to disburse benefits of Sharad Pawar Award as well as retirement benefits, are consequential one. As such, the complaint is maintainable under the M.R.T.U. and P.U.L.P. Act. Sugar Factory's refusal to disburse all such benefits is altogether unjustifiable, contrary to the service conditions and is an unfair labour practice. Consequently, the complaint needs to be allowed.

18. To conclude, I pass following order :—

Order

(*i*) The complaint is allowed.

(*ii*) It is declared that the Respondent-sugar factory has engaged in unfair labour practice under Item 9 of Sch. IV of the M.R.T.U. and P.U.L.P. Act, 1971.

(*iii*) The Respondent sugar factory is directed to cease and desist from engaging in such unfair labour practice forthwith.

(*iv*) The Respondent-sugar factory is directed to disburse difference of wages as per Sharad Pawar Award and all retirement benefits to the Complainant, within 15 days from today.

(*v*) Parties shall bear their own costs.

C. A. JADHAV,
Member,
Industrial Court, Kolhapur.

Kolhapur,
Dated the 28th February 2003.

V. D. PARDESHI,
Asstt. Registrar,
Industrial Court, Kolhapur.

———————

IN THE INDUSTRIAL COURT, MAHARASHTRA AT MUMBAI

BEFORE SHRI P. B. SAWANT, MEMBER

COMPLAINT (ULP) No. 757 OF 2000.–Shri Rajendre Shirke, C/o. Prakash S. Chavan, 64/1896, New Police Line, S. C. Boce Udyan Pantnagar, Ghatkoper, Mumbai 400 075.—*Complainant*—*Versus*—(1) The Loela Venture Ltd., Loala Hempinaki Hotel, Sahar, Mumbai 400 059, (2) Mr. Koses Samual, General Manager, Personnel, Leela Venture Ltd, Sahar, Mumbai 400 059, (3) Mr. K. S. Jayaraman, Personnel Managar, Leela Venture Ltd., Bahar, Mumbai 400 059.—*Respondents.*

CORAM.—Shri P. B. Sawant, Member

Appearances.—Shri Haresh Shivdasani, Advocate, for Complainant

Shri K. T. Rai, Advocate, for Respondents.

———

Judgement

1. This is a complaint filed by a person who was in the employment of the Respondent No. 1 and was terminated on account of his continuous ill-health. It is alleged that the Respondents have followed unfair labour practice under Section 28 road with item 9 of Schedule IV of the Act. The facts which gave rise to the present litigation can be summarised as follows :

2. The Complainant is in the employment of the Respondent as a Security Supervisor since 3rd July 1995. Though the designation of the Complainant was security Supervisor, he was doing the duty of the workman. On 1st April 1999, the Complainant was pramoted as Senior Security Supervisor. The job prescription discloses that the Complainant is a workman within the meaning of Section 2(s) of the Industrial Disputes Act.

3. The Complainant was suffering from back-ache during the year 1997 and was taking a treatment. The leave obtained by him was as per the leave rules, Besides in February, 2000, the Complainant had a fall while on duty and suffered problem from back-ache. He was admitted in the hospital and was given a fitness certificate also. On 20th April 2000, the Respondent No. 2 a General Manager - Personnel sent a letter discharging the services of the Complainant on medical grounds though occording to the Complainant, the Respondent No. 3 was a Personnel Manager was responsible and outhorised to terminate the services of the Complainant. According to the Complainant, the termination of services has taken place as the Respondent hotel became aware of the Complainant H. I. V. positive status as it was written on his discharge card by the C. S. I. Authorities. It is pointed out that the fitness certificate issued by the hospital authorities has not been considered by the Respondent. Therefore, though several attempts were made by the Complainant for his reinstatement but all were in vain.

4. After termination, the correspondence of the Complainant has not been responded to by the Respondent. The Complainant has pointed out the H. I. V. and points out that H. I. V. does not precent a risk of infection to others in employment in daily casual contact and persons having H. I. V. can lead healthy active life for about 7 to 18 years. Most of the people having H. I. V. positive are fully capable of carrying out their job responsibility.

5. The Complainant in the month of December, 1996, was deputed to work at a Project Construction Site. His job function was the same as he was doing eerlier. He has cured from the physical allment of back problem and in the year 1999, he was promoted as Senior Security Supervisor and started getting monthly emoluments of Rs. 5,575. The Complainant was discharged from E. S. I. Hospital on 7th March 2000 and the discharge card has complained that he was suffering from L. S. Strain with Letrovirous. His H. I. V. positive status get the Respondent aware. Thereafter again by routine check up, he obtained certificate from 22nd March 2000 from E. S. I. hospital which gave a fitness certificate. Inspite of the certificate, the Respondent chosen to terminate the services of the Complainant on account of Complainant's being H. I. V. positive. On instructions, the Complainant mat Respondent No.2 who told the Complainant

that his Services will be terninated is the will not go for medical check up. It was also suggested that the Complainant should submit his resignation. The Complainant was also given a post dated resignation letter by the Respondent and instructed to obtain for leave with out pay till the date of resignation. The Complainant did not give any resignation.

6. The Complainant was attending the duties but the Respondents are sending him to various Doctors for medical check up.

7. On 31st March 2000, the Complainant mat Dr. Bhalerao in E. S. I. hospital but the Complainant was not treated well by changed attitude of Dr. Bhalerao. It is the contention of the Complainant that his job was not streneous in nature and the back problem was not continuous. Besides the Complainant has got cured from the said problem. On 20th June 2002 and 27th June 2000, J. J. Hospital also granted fitness certificate to the Complainant. It is the contention of the Complainant that he is in good health and has not taken a long leave for his ill health. The Complainant has fully recovered. According to the Complainant, his illness is not of continuous nature and was only intermitant.

8. It is pointed out that the Respondents have not followed Section 25F of the Industrial Disputes Act. It is further pointed out that the Complainant's fitness was not tested as to the job function performed by him and he was not even offered any retrenchment compensation. Section 2(00) of the Industrial Disputes Act is not applicable and, therefore, it is contended that the order of discharge of the Complainant is bad in law. With this and other grounds, it is contended that the complaint be allowed and the Complainant be reinstated with full back wages.

9. The Respondents have opposed the complaint by filling the written statement *vide* Exh. C-5. It is the first and foremost contention that the contract of employment with the Complainant came to an and with effect from 20th April 2000 as it was not capable of continued on ground of health. It is further contention that the complaint is misconceived and frivolous. There is no cause of action. It is bad in law and the Court has no jurusdiction to entertoin and detormine the complaint. It is pointed out that at the relevant time, the Complainant was employed as Senior Security Supervisor and was performing administrative and supervisory duties and function as his chief and prima duties and function and drawing salary of more than Rs. 1,600 p.m. Therefore, the Complainant is not an employee within the meaning of Section 3 (5) of the M.R.T.U. and P.U.L.P. Act. Therefore, the complaint is not meintainable.

10. It is further pointed out that since the Complainant has alleged illegal termination of services by way of punishment allegedly falling under item 1 of Schedule IV of the M.R.T.U. and P.U.L.P. Act, therefore, this Court will have no jurisdiction. Hence, prayed for dismissal of the complaint.

11. It is pointed out that all the allegations in the complaint are vague, ambiguous and devoid of any substance. It is the contention that the Respondent is dealing with the business of hospitalities sector. It is not an industry. The Complainant was since beginning place in the hotel business pramises. The Complainant was placed in a junior management cadre. While working as Security Supervisor and Senior Security Officer, his duties were of administretive and supervisory. At the relevant time, the Complainant was a shift incharge. The persons working in the shift inclusive of security superviser, Senior Security Guards, Guards etc. were directly reporting to the Complainant. The Complainant used to breaf the Security Supervisor, Senior Security Guards ect.

12. The Respondents affirm that they are totally ignorant of the position that the Complainant was tested H. I. V. positive. According to the Respondents, there is no nenus with the Complainant having tested H. I. V. positive and the lettar issued by the Respondent dated 20th April 2000. The Complainant has persistent back ache problem and was in the medical treatment and as a result, he was absented from duty very frequently on medical grounds. Dr. Ram Prabhu by his certificate dated 10th April 2000 advised the Complanant to do light duty and he was certified as unfit for heavy and streneous work. The advice for light work was

only with a view that there should not be any recurrence of aggrevation of his problem. The Respondent under no obligation to rehabilitate the Complainant on a position entailing lighter work and, therefore, there was no alternative to the Respondent than to terminate the contract of employment.

13. It is denied that the Complainant was only given a designation of Senior Security Supervisor but actually he was performing the duties of the workman. It is denied that the Complainant was fit to resume duty as Senior Security Supervisor because he was unfit for heavy and streneous work. The employment of the Complainant was not capable of being continued on the ground of bealth. Therefore, the Respondent's not allowing the Complainant to resume the duty on 23rd March 2000., will not arise. With this and other grounds, it is contended that the complaint be dismissed with costs.

14. On this rieval contentions, following points arise for my determination :—

(1)	Whether the Complainant is an employes within the meaning of Section 3 (5) of the M.R.T.U. and P.U.L.P. Act, 1971 read with Section 2 (s) of the Industrial Disputes Act, 1947 ?	Negative.
(2)	Whether the present compling is maintainable ?	Nagative.
(3)	Whether this Court has jurisdiction to deal with the complaint in its present form ?	Negative.
(4)	Whether the Complainant has proved that the Respondents have committed unfair labour practice under item 9 of Schedule IV of the M.R.T.U. and P.U.L.P. Act, 1971 ?	Negative.
(5)	Whether the Complainant is entitled to the relief of declaration as prayed for ?	Negative.
(6)	To what consequential relied the Complainant is entitled to ?	No relief.
(7)	What order ?	As per final order.

Reasons

15. *POINT No.1 :-* On perusal of the oral and documentary evidence, it has to be admitted that Shri Shirke the Complainant was given an employment as a Superviser and has initisted his employment till the date of his discharge as a Superviser and then as Senior Supervisor. He is rendering the services as a Supervisor whether will take him out of the clutches of the of the term "workman" as envisaad under Section 2 (s) of the Industrial Disputes Act, 1947 and under Section 3 (5) of the M.R.T.U. and P.U.L.P. Act, 1971 will have to be seen through its proper perspective.

16. The term "workman" has been defined as :—

"Workman" meens any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or raward, whether the terms of employment be express or implied, and for the purpose of any proceeding under this Act in reletion to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consaquence of, that dispute, or whose dismissal, discherge or retrenchment has lod to that dispute, buk does not include any such parson".

(i) Who is subject to the Air Force Act, 1950 (45 of 1950), or the Army Act, 1950 (46 of 1950), or the Havy Act, 1957 (63 of 1957) ; or

(ii) Who is employed in the police service or as an officer or other employes of a prison, or

(iii) Who is employed mainly in a managarial or administrative capacity, or

(iv) Who, being employed in a supervisory capacity, draws wages exceeding one thousand six hundred rupees per manson or exercises, either by the nature of the duties attached to the effice or by reason of the powers vested in him, functions mainly of a managerial nature"

The exclusion clause (iv) is relevant to the consideration because the mere designation may be a name lending and it may not attract the managerial position. Therefore, more designation of a higher codre will not necessarily cost the person from the difinition of term "workman". While establishing the factom, the Complainant being a workmen or not, barden lies on the Complainant to establish that he is a workman having regard to the nature of duties rendered by him. The principle underlaying this proposition is that more concantration needs to be given on the actual performance of duty placed in person. Therefore, to find out as to whether a person is a workman or the Manager basically his performance of duty, responsibility placed in him, his playing a role if my in the policy decision and the value given to his decisions or reports by the management while forming the policy matters. Therefore, the deceesive test as said above needs to he considered rather to get impress with the designation given to the concerned person. The legal position in this regard clarifies that the essential conditions of a person being a workman within the terms of this definition is that he should be employed to do the work in that industry and that there should be relationship between the employar and him as between the employer and employee or master and servants. The prima facie test by which this relationship has got to be determined is the existence of the right in the master to supervise and control the work done by the servant not only in the matter of directing that work the servant is to do, but also the manner in which he shall do his work. On these principles, the evidence on record needs to be considered first.

17. The Complainant has led his evidence *vide* Exh. U-1. His appointment letter Exh. U-10 dated 4th July, 1995 discloses that his appointment was as a Security Supervisor, on monthly commolidated smoluments of Rs. 3,030. The service conditions offered to him are annexed to the said appointment letter, By Exh. U-19 dated 7th February 1996, his services are confirmed by the Respondent an Security Supervisor. By letter dated 1st April 1999 Exh. U-20, the Complainant was promoted as asenior Security Supervisor. The Complainant has explained his duties by pointing out that his services were utilised after December, 1996 at a Project Site called as Leels Caleria. Prior to that, he was working in the hotel. On construction site, he was checking the materials coming in and going out and making entries in the register. He was issning visitor tag by making intries in the visitor register. He was keeping vigil on the person entering in the premises. He used to chock fire fighting instrueents, electrical instruments etc. It is portiment to note that at construction Site, according to the Complainant, he used to open the gate for allowing the entry of vehicle and exit. While looking into the part of the evidence, it is clear that the Complainant has not explained what type of work, he was doing in the hotel. At the time of his discharge, he was on Project Site and that it appears that the Complainant might have explained his work on the Project Site.

18. In is further in his evidence that even after change of designation in April 1999, he has continued to do the same work at the Construction Site. It is very difficult to note that according to the Complainant, the duties performed by Socurity Guards and Security Supervisor wore the same. He has empleined that excepting the process of making entry in different logbooks by the Security Guards and the Security Supervisor, respectivaly, there was no difference in the nature of work of beth of them. At the Construction Site, the Senier Security Supervisor and Security Guards were arranging their duties amogst themselves. The Complainant points out this process through the Deployment Register wherein the duties of Senior Security Supervisor and Guards are to be entered. By this process, it is pointed out that the menagement never have informed the Complainant that he is in the junior management cadre.

19. Before concentrating on the documentary evidence, I have considered further part of the Exemination-in-Chief of the Complainant, wherein in the evidence, he has admitted that he was never appraising the report of any one of the personnel from Security Department. He was never sanctioning leave of any of the employee. While the Security Manager or Chief Security Manager were sanctioning the leave of the employees of the Security Department. Whenever the Complainant was emited ot verify the work of attendance, then he used to sign on the Register. On this process, one has to concentrate that the working in the establishment was going on in shift and that even thcugh the Complainant was working at Project Site, his services were controlled by the hotel only. Admittedly, there are no orders in writing posting the Complainant at Project Site.

20. Though the Complainant is working in shift, he is not able to give the details about the persons working in the shift but denies the suggestion that there are Senior Security Guards, Security Guards, Lady Searcher, Doormen, Liftmen are posted in the shift. It is very pertinent to note that the complainant admits that he was only Senior Security Superviser in the shift though he was working on the Constructions Site. He admits that Senior Security Supervier is the shift incharge of the said shift. The contentions regarding taking braifing from the earlier Supervisors are denied.

21. To construe the above oral evidence, I have referred to the documents on record produced along with Exh. C-6, Exh. C-9 is another list of documents comprising of the shift detail from the month of June, 1999 onwards, It bears the signature of the Complainant designated as Security supervinor and also a signature of Advisory Security and vigilence. The duty chart from August, 1999 shows that the Complainant has signed as Senior Security Superviser. Besides the Security Manager has also signed on it. Much hue and cry has been made pertaining to such allocation of duty but the documents itself indicate that the allocation was made by the Complainant as Security Superviser approved by the Manager.

22. The Security log Book is produced on record. It indicates instences occured during the duty hours but the important aspect of it is that the entry dated 17th October 1996 made by the Complainant saying that “shift charge handed over to S.S.S.S.S. Chand with keys, cash and pagar”. So also on 19th October 1996 and 21st October 1996. The entry dated 21st October 1996 page 19 is a report made-by-the Complainant against one Shri B. B. Dwiwedi Security Guards informing that be remained absent in the morning shift without informing the Shift Incharge.

23. These entries in the log book are indicative fact that the Complainant was holding charge of the shift and he was while complating the shift, required to hand over the charge to another Senior Security Supervisor. The report against the Security Guards for remaining absent without informing to the shift incharge substentiate the cerlier contention that there used to be always shift incharge having a designation of Senior Security Supervisor. Therefore, to link up the document like duty chart and log book, it reveals that the duties were being arranged by the Complainant and while working in the shift, the Complainant remained as shift incharge. These propositions, therefore, need to bear in mind while congtuning his position further more.

24. The word “supervise” has been explained in the Oxford Universal Dictionary as” to direct or inspectiwork or workers or operetion of an organisation “supervision”. In the Concise Oxford Dictionary the word “supervise” is cmplained as “oversee, superintendent oscation or performance of thing or action or work of person”. The word “Superviser” in explained as “a person the supervise administrative or advisory official in town school atc.

25. In the above context, a person can be said to be a supervisor if there are persons working under him ever whose work he has to keep a watch. In other words, he is that person who exemine and keeps a watch over the work of its subordinates if they erred in any way and corrects them. It is the duty to see that the work in any industrial unit is done in accordance with the manual if there is one or in acordance with the usal procedure. It is not his function to teke say managerial decision but it is his duty to see that the person over whom, he is supposed to supervise, do the work assigned to then according to rules and regultions. The

supervision necessarily refers to persons working under the superviser and it does not extend to supervision of plant and mechinery. While dealing with the exclusion clause a person doing the work of supervisary nature is excluded from the definition of workman. Howaver, his wages will be below Rs.1,600 then he can be considered as a workman though employed in the supervisory capecity. Therefore, the place to be carried out for carving set the designation and actual work of a person, his main and principal duties are to be established as supervisory character. Therefore, if the person mainly doing the supervisory work but incidental or for a fraction of the time does some clerical work, he would be deemed to be employed in supervisory capacity.

26. In view of the above legal principles and by coming back to the factual aspect discussed above, it is clear that the Security Supervisors, Senior Security Guards, Security Guards, Lady Searcher Liftmen, Doormen, Bell Boys were subordinate to the Senior Security Supervisor. Even if we admit that the paraphenia in the Security department of the Respondent is much higher and the Senior Security Supervisor is working much below, we cannot forget that there are workers who are working under the Senior Security Supervisor having different cadre. To supervise the work of these employees, I have earlier referred to the log book wherein, it has been expressly expressed that the Complainant was overseeing the work of Security Guards, making reports against them in case of their indiciplined behaviour or illegal absence. Their duties were prepared by the Complainant. Therefore, while supervising the work, it is the Complainant who was knowing it full well about the postings of each of the Security Ouards and other subordinate staff and it can precirely accepted that it is he can locate the porson at a particular place and fix a person at particular post for proper rendering of service. Such allocation of duty as well as the preparation of duty list attributes a supervisory nature of service rendered by the Complainant.

27. Besides the above conclusion, the duties performed by the Complainant are also being explained that he used to bruof the Senior Security Guards, Security Guards etc. and was allocating the duties of them. He has also admitted that the duties were adjusted amongst themselves. He has also admitted that he was recommonding the leave of subordinate staff. He has also admitted his signature on the leave card Exh. C-9. While concentrating on the act of recommendation of leave, it cannot be looked isaletedly. I do not find that the recommendation of leave was a sheer formality. Admittedly, the leave was never sanctioned by the Complainant but leave which he was recommended was because of his ability to cop up the absence of the concerned employee. It also reflects that the leave was reconmonded only because while allocating the duty at that particular post, the Senior Security Supervisor was in a position to fill in the gaps. This particular acpect clearly indicates that it is the Senior Security Supervisor who has to presuppose the absence of the employees and then to propose another person in ploce of the person who remainad absent. Therefore, proposing the leave or recommending the leave is on the contract showing the authority of the Supervisor that he is able to adjust amongst the existing employees in the absence of an employee who has opted for leave.

28. The staff appreisal report is on record. Admittedly, the name of the Complainant is not mentiond in the said chart as the appraiser. However, on the last page at Sr. No. 2, the Complainant has signed along with appraiser. The Complainant has tried to emplained that the signature was marely asked by his superior and, therefore, he has signed. But in my view, even if his superior has asked him to sign on the appraisal form, that itself will explain that his superior has found him to be appropriate person for obtaining his signature. It is not the case that the signature of the Complainant has been obtained on a casual basis itself shows that the Complainant being a Senior Security Supervisor was able to explain about the abilities of the employees whose appraisal was being made by the Security Manager. Therefore, obtoining a signature of a Senior Security Supervisor on a appraisal form itself carries the importance to the post of Senior Security Guards.

29. It is very pertinent to note that the Complainant has no where asked his Managar as to why his signature is being obtained on the appraisal form nor has conveyed that he is not supposed to signed as a part of his duty on the said appraisal form. Even if we consider the duties pesformed by the Complainant at the Construction Site, it is admitted that the duty roaster was arranged as per the evailability of staff in the Security Department and, therefore, the Complainant was overseeing the affairs of the entire security department as a Senior Security Supervisor. This admission goes to the root of the case.

30. At this juncture, the agreement about the wage fixation entered into with the Respondents and Bhartiya Kamgar Sena has been taken into consideration. The Complainant admits that he being the Senior Security Supervisor or the Security Supervisor, was never the member of Bhartiya Kamgar Sena. However, the Complainant admits that the Settlement of 1996 and 2000 do not cover the category of the Senior Security Supervisor or even a Security Supervisor. I have referred to the document of pay slip deduction pertaining to the Complainant and to my surprise, I have foond that in the deduction column, there is deduction towerds union contribution. This fact shall go to the root of the case and substantiate the contention of the Complainant that he was never a member of the union which is fortified by the absence of any settlement pertaining to the category of Senior Security Suporvisor or Security Supervisor.

31. Learned Advocate Shri K. T. Rai has relied on the observation in a case of *Shri Ramesh R. Vase* Vs. *Commissionar Revenue Division, Amravati, 1996-I-LLJ-55* and points cut that the Complainant has not made any whisper about the duties performed by him during the material time as a Senior Security Supervisor and hence, the Complainant must fail on that ground. I have referred to the main complaint and found that on page No. 8, he has explained the duty as a Security Supervisor and to page No. 9, he has explained the duties as Senior Security Supervisor. Therefore, the submission of learned Advocate Shri Rai cannot be accepted.

32. Learned Advocate Shri Shivdesani has referred to the observation of Hen'ble Apex Court in a case of *Ved Prakash Gupta* Vs. *Delton Cables (I) P. Ltd., 1984 LAD I. C. 53.* The observation refers to a managerial or administrative capacity person employed. It is necessary to point out that it is not the case of the Respondent that the Complainant was working as managerial or administrative capecity but ascertained that the Complainant was working in the supervisory catogory drawing monthly emoluments more than Rs.1,600. Therefore, the exclusion clause (iv) refers to the supervisory capacity only and hence, the observations are not repreduced here. In another case of *Kulwant Singh* Vs. *Reliance Petrochemicals Limited, 2000-II-CLD-138* wherein facts are such that the employee has no powar to appoint or terminate the services of any employee. There is only a vagus ststement about 3/4 employees working under the Petitioner. There is evidence also that sustentiate part of the work of the Potitioner employee concedes of clerical and occasional of admistrative nature. Therefore, Hon'ble His Lordship has considered him as a workman. In the case in hand, the employee concerned has explained the situation by categorically pointing out the duties performed by him. The main duty is of security check up and the subsequent duty of clerical nature is anciliary and it is a part of performance of duty as Security Suporvisor and incidental making such entries in the relevant register will not take the Complainant out of the supervisory category. On page No. 9 of the Complaint, the Complainant has explained that as a Senior Security Supervisor, he was to take round at all posts, check the registers and to assist the Security Manager. If these duties are taken into consideration, it reveale that these are supervisory in nature and not clerical in nature.

33. In a case of *South Indian Bank* Vs. *A. R. Checko, 1964 (0) ILD-120.* Hon'ble Their Lordships have upheld the contention about the maintainability of the application under Section 33 (*C*) (*2*) claimed by the employee. On facts, the case is totally different and on different circumstances. In a case of *Inter Globe Air Transport, a Division of Inter Globe Enterprises* Vs. *Smt. Leela Dechande, 1994-II-LLM-559,* Hon'ble His Lordship has observed that :—

> "The mere fact that some control over the other Clerks is given would not change the position of a Clerk to that of supervisor or a Menager. The more power of allocation of work between the three employees who were answerable to the Respondent workman cannot load one to the conclusion that she is not a workman within the meaning of Section 2 (s) of the Industrial Disputes Act."

Here in this case, the evidence indicates that the Complainant was supervising the work of all the Guards as his primary duty. There is no case that the incidental some of the Guards or other subordinates were placed under the Complainant. Therefore, by looking into the paraphenis in the Secutity Department, the subordinate staff admittedly was under the supervison of the Complainant. The Complainant himself has explained in his evidence and in the complaint at page Nos. 8 and 9 that he is required to search and inspect all the posts where the Security Guards are deployed. This fact itself indicates that the Complainant has a sense of supervision over the subordinate staff and that he was doing the same under the authority of employment.

34. In *Arkal Govid Raj Rao* Vs. *Ciba Geigy of India Ltd., AIR 1995 SC-985,* Hon'ble Apex Court has given a test for considering a person as a workman. It relates to the primary and basic duties constituted the criteria and it does not relate to the incidental duty. It is explained that on employee has multifarous duties and the question is raised whether he is a workman or some one other than the workman. The Court must find out what are the primary and basic duties of the person concerned and if he is incidentally asked to do some other work. Considering these guidelincs, the fact matrix of the case squarely indicates that the Complainant was appointed as a Security Supervisor. His main duty was to keep vigil and do the security of the person and property of the Respondent establishment. His duties are explained by Shri P. A. Belsara Exh. C-3 that he was incharge of each shift and was allocating the work to Security Guards, Doonman ect. and was keeping the control over the working of the Security Guards. Therefore, the main part was as said by Shri Balsara cannot incidental part of the duty is to make entries in the log book regarding the events in the day. Besides this, Shri Balsara has said that the Complainant was required to take round over the entire premises and hotel and to oversee the work of the Security Guards who are placed at the particular place as well as he was required to attend the complaints of the Guests. These duties as explained by Shri Balsars has no where been controverted in the entire cross examination. What has been contended that all these duties do not form a supervisory role but it has formed the employee in the workman category only. Since in view of the observation of Hon'ble Apex Court in the above referred case, the primary duty parformed by the Complainant is that of supervisory and there is no question for having any other view as argued by learned Advocate Shri Shivdasani.

35. In a case of *Burmashell Oil Storage & Distributing Company of India Ltd.* Vs. *The Burmashell Staff Association and others, AIR 1971 SUPREME COURT 922,* Hon'ble Apex Court has held that the person cannot be assumed to be a workmen on the ground that he does not come within the 4 exceptions in Section 2 (s) of the Industrial Disputes Act. The specification of 4 types of work in the definition obviously is intended to ley down that an employee is to become a workmen only if he is employed to do the work of one of those types while there may be employees who are not doing any such work would be out of the scope of the word "workman" having to resort to the exception. In careful abidance with the guidelines even by the Hon'ble Apex Court, I have tested the facts as seen from record placed before me and found that the Complainant was doing the supervisory work. He was recommending the leave. He was signing on appraisal form and he was overseeing the work of the subordinate staff. His initial appointment was in the supervisory cadre and the work allotted to him was to oversee the work of the Security Guards. This particular aspect clearly postuletes that the Complainant is working in supervisory cadre which is falling within the exception to the definition of a workmen.

36. In a case of *Anand Bazar Patrika Pvt. Ltd.* Vs. *The Norlamn, 1970 (3) SCC-248,* Hon'ble Supreme Court has held that the minor duties of supervisory nature will not convert the employee as Supervisor. The employee was initially appointed in the clerical cadre and not in supervisory capecity. This very fact defers from the instant case. Therefore, the observations of Hon'ble Apex Court are not reproduced here.

37. Considering all the above citations relied on by learned Advocate Shri H. Shivdasani, I have referred observation of our High Court in a case of *The Union Carbide (India) Ltd.* Vs. *D. Samuel and Ors. 1998-II-CLR-736.* Hon'ble His Lordship has held that :—

"The distribution of work may easily be the work of a Manager of an Administrator but checking the work so distributed and keeping an eye over it is certainly supervision"

The Complainant himself has explained the nature of work which he was required to do and, therefore, oversee the work or verifying a to whether the work has been properly completed or not itself becomes a supervisory work. Hon'ble His Lordship in a case of Union Carbide India Ltd. has referred earlier decision in a case of *S. V. Palvankar* Vs. *Preslding Officer, First Labour Court, 1992-I-CLR-184.* It is observed that when a person is working as Supervisor, he is reguired to oversee the working of the department. Since he is to be incharge of cutturn of the department, he has to efficiently manage man, machines and material. For this purpese, he alone is the bect Judge as to which person is to be speared at any given time. It is for these reasons that the supervisor who is on the sopt is expected to make a recommendation as to whether the leave could be granted to any workman working in his department. It is precisely for this reason that the authority competent to grant leave, seek his recommendation and does not pass an order without his recormmendation. Such recomendation of leave is one index of supervisory function.

38. If is further ruled that exercise of promotional power is managerial but appraisel of the employee is required to be called from the immediate superior who oversees the working of the workman as managerial authority may not have knowledge of the day to day working of the employee. Hence, the appraisel of the workman is another index of supervisory power. The principle laid down by Hon'ble His Lordship while construing the test for considering the person as supervisory position or not. These are required to be reproduced here :—

(1) Designation is not material but what is important is the nature of work.

(2) Find out the deminant purpose of employment and not any additional duties the employee may be porforming.

(3) Can he bind the company/employer to some kind of decisions on behalf of the company/ employer.

(4) Has the employee power to direct or oversee the work of his subordinates.

(5) Has he power to sanction leave or recommend it, and

(6) Has he the power to appoint, terminate or take disciplinary action against workman.

Considering this test and after applying those to the instant case, it is transpired that the Complainant was doing the supervisory work, his initial appointement was in supervisory cadre, he was recommending leave, he was signing on appraisal form, he was overseeing the work of the Guards and was preparing their duty chart. All this and other duties which were performed by the complainant have taken him out of the term "workman" and he is falling under the exception No. (iv).

39. So far as being unionised category is concerned, the Complainant has totally failed to establish the said aspect by any cogent evidence. The only witness he has examined is Shri D. J. Cabral. His assertion that the benefits of the settlement were extended to him. He was in supervisory cadre and working in the housekeeping department. In my opinion, when the senior Security Supervisor was not subjected to any settlement, there is no question for applying extension of benefits and keeping the Complainant into the unionised category will not arise. It is pertinent to note that Shri Cabral has admitted that these settlements are not applicable to SB-I and SP-II grades. This admission goes to the root of the matter. The pay-slips given to the Complainant indicate that the Complainant was in Sp-II grade after promotion. Therefore, the settlement obviously not covered the service conditions of the Complainant. With all these contentions, I hold that the Complainant is not a workman. Hence, I answer point No. 1 in the negative.

40. *POINT Nos. 2 & 3.*— The maintainability of the complaint has been challenged on the ground of Complainant's being not a workman as well the Complainant has come with a case under item 9 and, therefore, it is contended that this Court has no jurisdiction to entertain the complaint. It is further pointed out that the contract of employment of the Complainant was brought to an and on 20th April 2000. Pursuant to Section 2 (*00*) (c) of the Industrial Disputes Act *i.e.* on account of his continued illhealth. Therefore, such termination of service is falling under item 1 of Schedule IV of the Act. Therefore, this Court will have no jurisdiction to entertain the Complaint. So far as maintainability of complaint is concerned, this Court has already hold that the Complainant is out of the purview of Sub-section (*5*) of Section 3 and, therefore, he being not a workman. Obviously, the complaint is not maintainable.

41. So far as jurisdiction of this Court is concerned. the Complainant has choseon to over that while discharging his the service, the Respondent has committed breech of Sections 25F and 25G of the Industrial Disputes Act, 1947. The Complainant has relied on the landmark judgment of Hon'ble Supreme Court in a case of *S.G. Chemicals and Dves Trading Dwalonees' Union* Vs. *S. G. Chemicals and Dyes Trading Ltd., 1986-II-Supreme Court-Cases 624.* The principle underlaying the 06 servation is that any violation of statutory provisions shall fall within the ambit of item 9 and the complaint under item 9 shall be maintainable.

42. Section 25G of the Industrial Disputes Act deals with the procedure of retrenchment which lays down the principle of last come, first go. While Section 25P deals with the condition precedent to retrenchment of a workman. Section 2 (*00*) of the Industrial Disputes Act defines the term "retrenchment" as the termination by the employer of the service of the workman for the reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action..... . It does not include :—

(*a*) .....

(*b*) .....

(*bb*) .....

(*c*) Termination of service of the workman on the ground of continued ill-health.

Locking into the definition and text of the letter of termination, it is clear that the termination is falling within the exception clause to the retrenchment. Therofore, while reading the word "retrenchment" Sub-clause (c) cannot be excluded as the termination under that clause has itself is excluding the employee from the term "retrenchment". Sections 25F and 25G are to be followed if there is a retrenchment within the meaning of Section 2 (*00*) of the Industrial Disputes Act. But when the termination is excluded or termination is of the nature given in clause (c) to Section 2 (*00*), then in that case, the question of following precondition to retrenchment or procedure to be followed after retrenchment need not arise. Therefore, pursuance to the fact that the termination is under Section 2 (00) (c) of the Industrial Disputes Act, then the question of coemitting breach of Section 25F of Section 25G will not arise and, therefore, the question of considering the case under iten 9 will not arise. In this situation, obviously, the complaint has gone out of the jurisdiction of this Court. Therefore, I have given by negative findings to both these points.

43. *POINT No.4.*— At the out set, it has to be made clear that the Complainant once was admitted in S. S. I. Hospital and on the discharge card which the Complainant has put up before the Respondent contends that the Complainant is suffering with Letrovirous. Therefore, the Respondent is bent upon to terminate the service of the Complainant. In other words, the Complainant intends to emphasis that the Respondent has terminated his service because the Complainant was proved to be H. I. V. Positive and still suffering with H. I. V. On this aspect, the Complainant seeks a relief with the hands of this Court without denying that fact that be is H. I. V. Positive and not yet been recovered. It has been vehemantly submitted by learned Advocate Shri Shivdasani that the employees suffering from H. I.V. Positive, has to be rehabilitated in the society and cannot be discriminated by effecting his termination of service. He has relied on the catena of judgment contending that the employee concerned being dismissed from service

on account of his being H. I. V. Positive, should not be subjected for termination. I have perused the original letter of discharge by which the Complainant was discharged from service. The letter does not speak a word a word about Complainant's being H. I. V. positive status. On the contrary, it reflects about the continuous illhealth and the Complainant's remaining abcent on account of his continued ill-health.

44. It has been made clear on behalf of the Respondent that the services of the Complainant were never brought to an end because of Complainant's being H. I.V. Positive. On such clarification, the details about the H. I. V. Positive person and the peried of development of Aids etc. need no consideration and, therefore, I have concentrated on the word continued ill-health as contemplated under Sub-clause (c) to Section 2 (00) of the Industrial Disputes Act, 1947.

45. The word "ill-health" is described under the Act as disease physical defect or infiralty or unsoundness. A person who is not free from disease is certainly not possessing a sound helth for active duties and if that sort of thing continues for a long period, he must be said to be suffering from continued illhealth. It suggests that it is prolonged for a considerable pariod. It should be of sufficiently long duration and continuance. A person can be said to be suffering from continued illhealth when disease in spread over for some period or time. The use of word "continued" before exprexsion "ill-health" suggests that it is prolonged for a considerable period. The expression "continued ill-health" has to be construed to be recoverable to the state of physical condition of a pereon concerned incapaciated him for an indifinite period though he same need not necessarily be co-related to any organic disease in the system.

46. On this aspect, I have referred to the oral evidence on record indicating the health of the Complainant as such. The Complainant asserts that he was suffering from L. S. Strain. He admits that in the year 1997, he has a back problem and he took treatment in the E. S. I. Hospital at Mulund. He was hospitalised for 25 days. On production of fitness certificate, he was alowed to resume. In the year 1998, he took leave for 24 days on account of his same back-ache. Again in the year 1999 he took leave on account of his back-ache for 21 days. In February, 2000, he had a fall and his back pain erupted again. He took treatement in E. S. T. Hospital for 7 days as an indoor patient and was advised to take rest for 14 days. He produced a fitness certificae after resuming. It is further pointed out that the Complainant was asked to appear before Dr. Bhalerao who is Medical Officer of the S. S. I. Hospital. The Complainant could not meet Dr. Bhalerao. Thereafter, he was sent to Dr. Ram Prabhu who is pennel Doctor of the Respondent and then, subsequent incident had followed.

47. It is the contetion of the Complainant that Respondent when came to know about his H. I. V. Positive, the Respondent has decided to terminate his services. It is true that whenever leave was obtained by the Complainant, it was sanctioned to him and it is not a case that the Complainant has ever proceeded on unsanctioned leave. After termination, the Complainant want to Dr. Gawhale of Orthopedic department of J. J. Hospital and after examination, he was given certificate of fitness and suggested for light duty.

48. The Respondents intend to emphasis that the Complainent is required to do a strenceous job. It is explained that the Respondent hotel is comprising of 11 acres of land. Besides there is area undertaken by the Respondent and the Complainant was also required to look after it. Therefore, according to the Respondents, for visiting all the points where Guards are posted or on the beautification ares and the job of the Complainant has become a streneous job. The Complainant needs to be fit in service so far as the job expectations are concerned. It has also been made clear that the Respondent has no light work to be given to the Complainant.

49. I have referred to the leave card produced along with Exh. C-12 along with copies of the Muster-rolls of the Complainant. The leave card of 1999 indicates the leaveiobta ned by the Complainant. The entry therein indicates that the reason for leave was shown as sicknoss. The leave card of 1997-98 is not seen on record. While the leave obtained for the year 2000 shows that the Complainant obtained leave for personal work. The copies of the Muster-roll indicate the days on which the Complainant has actually worked. The chart produced by the Respondent

along with Exh. C-2 which is an extract of Muster-roll in respect of the Complainant's rendering service in between 1997-2000. It indicates that the Complainant for the total period in between 1997 to 2000 was on leave for 306 days exclusive of weekly offs. I have referred to the application for leave submitted by the Complainant dated 22nd June 1997 from Rajiv Gandhi Medical College, Kalwa, Chatrapati Shivaji Maharaj Hospital, Thane. The attached discharge card indicates that the Complainant was given a Pelvik traction for his back pain. Admittedly, the period for which the Complainant was on leave was not in every month but intermitantly but when the episode of acute pain has come, the Complainant had to undergo treatment continuoualy. It can be seen from record that in the year 1997, the Complainant was absent for 99 days. Out of which, 50 days, he was on sanctioned leave and 49 days he was absent. In the year 1998, he was on sanctioned leave for 56 days and absent for 25 days In the year 1999, the absenteesm is $12^{1}/_{2}$ days while sanctioned leave was of 86 days. In 2000, his absenteesm is of 53 days. Therefore, having a look to the chart and the dates mantioned therein practically, every month, the Complainant was either absent or on senctioned leave. His obtaining the sanctioned leave will not necessarily exclude him from noting a fact that he remained absent from duties. His remaining absent from duties is on account of his L. S. Strain. Therefore, though it is said that intermitant admission in the hospital should not necessarily covers the continuous ill-health but the fact before me indicates that in every month, there is either absenteesm or leave obtained by the Complainant. This fact therefore, has to be reckoned pursuant to the averments in the discharge letter that the Complainant is suffering from continued ill-health.

50. It is well said that the contract of employment postalates certain physical fitness in the workman. If he is discharged on the ground of ill-health, it is because he was unfit to discharge the service which he had undertaken under the contract to render. "Continued ill-health" includes any-physical defects or infirmity incapaciating the workman for future work for indifinite period. The continued ill-health is only a set of physical condition of a pereon which need not necessarily be co-related to any organic disease in the system. The satisfaction has to be reached that the employee has remained in continued ill-health and because of that continued ill-health, he has become unfit to perform the duties for which, he was employed. The unfitness to porform the duties is thus related to "continued ill-health". The term "continued ill-health" is a pure question effect.

51. In view of the above situation, the nature of duties which the Complainant needs to perform is of a supervisor. The term supervisor has already been discussed and disclosed earlier. It is the contentention of learned Advocate Shri Shivdasani for the Complainant that the Complainant can do the job of sitting in the office also and mainly he is doing a clerical work and occasionally paying visit to the various security spots. Shri Balsara has explained the duties of the Complainant. Those are corresponding with the duties explained by the Complainant in his pleadings. Before discussing the evidence of Shri Balsara, I am intending to point out the evidence relied on by the Complainant.

52. The Complainant has exmined Shri S. K. Gawhale Exh. O-2. He is Assistant Professor, Grant Medical College. He has examined the Complainant being H. O. D. of Orthopedic department. He has explained that the meaning of L. S. Strain has collective terminolegy for low back paid due to various causes in Lambocacral spine. He has explained that the work "chronic" is used whenever duration of back pain is longer. It can be called as chronic when the patient is suffering for back-ache for 2 to 3 years. He has explained further that the chronic back-ache is a vague systimatic. It does not necessarily mean that the disability is significant for the patient not to per-form even a light duty.

53. Though Dr. Gawhale has given a fitness certificate, it has to be borne in mind that he did not as the Complainant the nature of day to day office duties of the Complainant., nor he has asked him about his designation. He has also expressed his inability to remember as to whether he is working as Senior Security Personnel. While construing the evidence of Dr. Gawhale, it is necessary to bear in mind that the certificate issued by him was after the

discharge of the Complainant by the Respondent. By considering the certificate of Dr. Ram Prabhu and the earlier episodes, the Complainant's remaining absent has discharged him. Therefore, though Dr. Gawhale has certified that the Complainant is fit to resume duty, Dr. Gawhale was not aware the nature of duty to be performed by the Complainant. Secondly while scarching out the sanse of unfair labour practice followed by the Respondent, one has to concentrate on the cause of action and not beyond that. Therefore, what was the situation when the cause of action has taken place will have to be taken into consideration. The action taken by the Respondents at the relevant time whether was correct and not correct in the given circumstances was also required to be reckoned. Therefore, a certificate given by Dr. Gawhale is without having a knowledge of the nature of duties the Complainant is required to be performed and that too after the discharge of the Complainant.

54. Coming back to the evidence of Shri Balsara, he has explained that the Complainant was working of subject Site and was required to note down the incoming and out going material and persons. The Complainant being Senior Security Supervisor required to take round over the entire premises of the hotel and to oversee the persons posted at various places. The outside beautification area maintalned by the hotel is extended upto 7 k.m. This fact indicates that the Complainant is required to keep proper vigion of all these aspects and, therefore, he needs a proper and sound health. The instances as quoted regarding absence or proceeding on leave indicates that the complainant was falling sick on an often and that aspect can treet the Complainant as under continued ill-health.

55. Learned Advocate Shri Shivdasani has relied on the observation in a case of *Goodyear India Ltd.,* V/s. *Presiding Officer, Industrial Tribunal, Haryana and another, 1983 I. C. (MOC)-117.* It is the case of workmen who has been terminated on the ground of illhealth. However, the nature of illness was no where been established. No material is placed on record to show as to what could be the effect of that illness on the health of the workman and also on the date on which the termination order was passed when the workmen was on duty and therefore, Hon'ble His Lordship was pleased to net aside the termination being improper. Hon'ble His Lordship has further pointed out that the language of clause (*c*) of Section 2(*00*) cannot possibly be interpreted to mean that the worker who had been ill at some point of time, prior to the termination of his service, must have been tendered incapable of performing the service of the duties for which, he has been engaged. Considering the rule and the facts with the instant case, it is found that the certificate issued by Dr. Ram Prabhu and the authority of S. S. I. Hospital as well as Dr. Gawhale of J. J. Hospital have expressly expressed that the Complainant was suffering from L. S. Strain and due to which, he cannot perform heavy duty. Considering the nature of duty, the Complainant requires to perform and considering the falling sick by the Complainant in between 1997 and 2000, it is clear that the Complainant was not able to perform such streneous job as being allotted to him. Lerned Advocate Shri Shivdasani has relied on the steumvation of Allahabad High Court in a case of *Ichal Harain Samna* V/s. *Presiding Officer, Labour Court, 1982 L. B. I. C. 79.* Hon'ble His Lordship has ruled that before discharging an employee on account of his illhealth, it has to be found out whether the continued ill-health has made the employee unfit to perform his duties for which he is employed. Here in this case, the Respondent has taken care to send the Complainant to Dr. Ram Prabhu who is orthopedic surgeon and got the Complainant examines through him. It is in the evidence of Dr. Ram Prabhu *vide* Exh. C-8 which discloses that the Complainant has taken treatment for last 3 years and on examination, he has found that the Complainant working as Senior Security Supervisor and his job requires stsenecus activition. Therefore, he opened that with his L. S. Btrain, the Complainant would be unfit to do his job and therefore, he has advised for suitable job having a light work. Dr. Ram Prabhu has further complained that the work light work means that the Complainant does not repair to do a job which does give a strain to his back. If on employee requires to be on move through out the day to perform his job, then such job according to Dr. Ram Prabhu, is streneous job.

56. On this Sector, it is very clear that the Respondents have taken care of sending the Complainant for recheck upto Dr. Ram Prabhu to find out the suitability of the Complainant to perform the same job by carrying L. S. Strain. During the course of cross examination, Dr. Ram Prabhu has admitted that lifting a load and excessive bending is considered as etreneous work for L. S. Strain. The person suffering from L. S. Strain can stand, walk and write. It is contended that the job of the Complainant being a senior Security Supervisor, requires physical and mental alertnees all the while. In all the circumstances, the contentions of the Complainant that he was able to perform the duty and, therefore, he was promoted by the Respondent does not suit the situation. The ailment with which the Complainant was suffering has been visualised on the besis of the medical reports. The continuous sense of suffering of the Complainant is visualised from the leave record end, therefore, the Respondent has taken a decision for discharging the Complainant. As referred above, the period covered during the last 3 years immediately proceeding the date of discharge, the Complainant was suffering from continuous ill-health. The nature of duty as explained by the Complainant himself also indicates that by carrying a load of L. S. Strain on his person, he is not in a position to perform the job of Senior Security Supervisor. The Respondent plainly stated that there is no other light duty to be made available to the Complainant.

57. Before concluding, I must refer to the observation of Hon'ble Apex Court in a case of *Anand Bihar & Ors.* V/s. *Rajasthan State Road Transport carportion & Atr. 1991-I-CLB-525 (SC).* It lays down that even otherwise it can seoruonsly be disputed that the impression ill-bealth used in sub-clause (c) has to be construed relatively and in its content and it must have a bearing on the normal discharge of duty. It is not any illness to that which interfere with the usual orderly functioning of the duties of the post which would be attracted by subclause. Conversantly, even if the illness does not affect general health and general capacity and is restricted only to a particular limb has arhoned but the facts efficient working of the work entrusted, it will be covered by the phrace. Having regard to the ratio laid down by Hon'ble Apex Court, I am in careful obidance with the same and found that the illness with which the Complainant was suffering was within the category of continued ill-health. The nature of duties explained does not show that the Complainant is in a position to follow these duties. This conclusion is also based on the opinion of Dr. Ram Prabhu and also with the legal reports of the Complainant. With that discussion, I have found that the discharge of the Complainant is within the 4 corners of the provisions of sub-clause (*c*) to Section 2 (*00*) of the Industrial Disputes Act. It cannot be termed as illegal or unfair labour practice as alleged by the Complainant. Therefore, I have given my negative finding to the points accordingly.

58. *POINT Nos. 5, 6 & 7 :–* Once the Complainant has failed to establish that he is a workman and that no unfair labour practice on the part of the Respondent has been proved, then there is no reason for considering the Complainant has entitled for any declaration or any consequential relief. In the result, the Complainant fails. Hence, the order :—

Order

(*i*) The Complaint is hereby dismissed.

(*ii*) In the peculiar circumstances, both the parties are left to their own costs.

P. B. SAWANT,
Member,
Industrial Court, Mumbai.

Mumbai,
dated the 19th April 2003.

K. G. SATHE,
Registrar,
Industrial Court, Mumbai.
dated the 29th April 2003.

IN THE INDUSTRIAL COURT AT MUMBAI

EXHIBIT No. O-1

REVISION APPLICATION (ULP) No. 105 OF 2001.–The General Manager, The BEST Undertaking, BEST Bhawan, Mumbai 400 001.—*Applicant—Versus*—Shri Bhanudas Appaji Kadam, Lake View Co-op. Housing Seciety, Shriganesh Nagar, Punch Kutir, III, Powai, Mumbai 400 076.—*Opponent.*

In the matter of revision application under Sec. 44 of the M.R.T.U. and P.U.L.P. Act, 1971 against the Order dated 10th April 2001 passed by VIIth the Labour Court, Mumbai, in Complaint (ULP) No. 561 of 1999.

PRESENT.—Shri M. L. Harpale, Member, Industrial Court, Mumbai.

Appearances.—Mr. R. G. Hegde, Advocate for Applicant Undertaking.

Mr. S. A. Khanolkar, Advocate for Opponent Employee.

———

Judgement and Order

1. The applicant was the Respondent in Complaint (ULP) No. 561 of 1999 filed by the opponent empleyee the VIIth Labour Court, Mumbai, under items 1 (*a*), (*b*), (*d*), (*e*), (*f*) and (*g*) of Seh. IV of the M.R.T.U. and P.U.L.P. Act. (hereinafter the opponent is referred to as the complainant employee and the applicant is referred to as the Respondent/Respondent Undertaking.)

2. Briefly stated, the case of the complainant employee is as follows :—

He joined the Respondent Undertaking as a Conductor on 3rd October 1978, and he worked thereafter continuously for about 21 years *i.e.* till his dismissal with effect from 27th August 1999. It is further contended that he was chargesheeted for the incident dated 1st March 1999 under standing order 20 (*c*) *i.e.* "dishonesty in connection with the business of the Undertaking", standing order 20 (*j*) *i.e.* "gross negligence of work" and standing order 20 (k) *i.e.* "breach of rules/regulations of the Undertaking." It is further contended that on 1st March 1999 he was on duty on bus plying in route No. 498. His bus came to be checked at about 9-25 a.m. when it was proceding from Agarkar Chowk to Teen Hath junction *i.e.* at Maharana Pratap Chowk, bus stop. On checking, it was found that a group of passengers had only 3 tickets of Rs. 9.50 each. In fact, a group leader had tendered a currency note of Rs. 50 and demanded 4 full tickets and one half ticket. But he issued 3 tickets of Rs. 9.50 each and returned Rs. 20. Thus, he failed to return balance of Rs. 1.50 and to issue one full and one half ticket to the said group of passengers. It was also found a shortage of Rs.7.20 in the cash bag with him. It is further contended that the enquiry against him was not fair and proper. His service record during the poried of 21 years was clean and unblemished. The action of the trying officer is illagal and in violation of the principals of natural justice and with undue haste and not in good faith in colourable exereise of the employer's right for patently false reasons. It is further contended that the punishment of dismissal is shockingly disproportionate. Hence this camplaint.

3. On appearance the respondent filed his reply to the Complaint and thereby resisted the complaint. Lastly, he prayed for dismissal of the complaint on the grounds given therein.

4. After filing the reply before the trial Court, both parties filed a joint purshis stating for not leading any oral evidence and allowed the Court to decide the complaint on the documents on record and the arguments of their Advocates. On the said joint purshis, the trial Judge proceeded further to hear the arguments and on hearing the arguments and on considering the documents, framed 4 issues and decided the said issues and passed the final order dated 10th April, 2001. By the said order, the complaint has been partly allowed directing the Respondent Undertaking to reinstate the Complainant employee in service without back wages, but with continuity of service.

5. Being aggreived by the said final order dated 10th April 2001, the Respondent has preferred this revision application on the grounds as set out in his revision memo.

6. Heard the Learned Advocates for both parties. On considering their arguments and the material on record, the following points arise for my determination and I have recorded my findings thereon for the reasons stated below :—

Points	*Finding*
(1) Whether the trial Judge has rightly decided the Issues Nos. (2) and (3) and recorded his findings thereon ?	Yes.
(2) Whether the trial Judge has rightly passed the final order dated 10th April 2001 ?	Yes.
(3) Whether it is required to interfere with the said findings on the issues or the final order recorded/passed by the trial Judge ?	No.
(4) What Order ?	As per the final order below.

Reasons

7. The Issue No. (1) pertains to fairness of enquiry and findings of the trying officer. The said issue is decided in the negative and the trial Judge has held that the findings of the enquiry officer/trying officer are not perverse. Thus, this issue is decided in favour of the Respondent. Since this issue is decided in his favour, the findings on the issues Nos. (2) and (3) partaining to the punishment and reliefs are under challenge. So also, the final order dated 10th April 2001 based on the said findings on the issue Nos. (2) and (3) are under challenge. There is also no dispute between the parties about the same.

8. Before considering the material on record, it is necessary to discuss the decisions of our High Court relied on by the Learned Advocate for the Complainant employee on the point of jurisdiction of this Court under Sec. 44 of the M.R.T.U. and P.U.L.P. Act. He has relied on the following decisions :—

(1) M. K. Bhuvaneshwaram *V/s.* Premier Tyres Ltd. reported in 2001 II CLR 245.

(2) Past Control of India *V/s.* Pest Control India Enployees Union in 1994 I CLR 230.

(3) Kirloskar Cummins Ltd. *V/s.* S. S. Darekar reported in 1997 (2) LLN 197.

(4) Amunition Factory Co-op. Credit Society *V/s.* B. R. Ghule reported in 2000 I CLR 806.

(5) M. S. R. T. C. Corporation *V/s.* Kant Rao, reported in 2000 II CLR 865, and

(6) Gajanan S. Thakre *V/s.* M. S. R. T. Corporation reported in 2000 III CIR 99.

From the observation of Their Lordships in all the above decisions, it appears that the Industrial Court has extremely narrow and restricted jurisdiction under Sec. 44 of the M.R.T.U. and P.U.L.P. Act and it cannot reassess or reappriciate the evidence while deciding revisions under Sec. 44 of the M.R.T.U. and P.U.L.P. Act, as it cannot act like an appellate authority. In the light of the above observations, this revision application can be decided.

9. As discussed above, the finding on the issue No. (1) with regard to pervarsity of findings of the trying officer is not challenged in the present revision. The complainant employee has also not challenged the same by filling a separate revision application. The Learned Advocate for the Complainant employee has also not disputed the said finding at the time of his arguments at the bar. Therefore, one thing is clear that the charges levelled against the Complainant employee are proved as held by the trial Judge and the only point now remains as to whether the trial Judge has rightly held that the punishment of dismissal is shockingly disproportionate. On perusal of the judgement and the final order dated 10th April 2001, it appears that the trial

Judge has come to the conclusion that the punishment of dismissal awarded by the Respondent is disproportionate and the complainant employee is entitled for reinstatemant, Since the misconduct is provied against the complainant employee, the trial Judge has granted the relief of reinstatement without back wages, but with continuity of service, to meet the ends of justice. The grounds given by the trial Judges are that—

(1) The Complainant employee had 21 years of continuous service without any chargesheet; (2) the amount involved in the enquiry/misconduct is Rs.1.50, which was retained by the Complainant employee with him and the Complainant had not issued one full ticket and one half ticket to the passengers; (3) it would cause injustice to the Complainant employee if his 21 years of service is not considered. It also appears that while arriving at the above conclusion, he considered several decisions as discussed in his judgement and as relied by the Learned Advocate for the Complainant employee. So considering the observations and the decisions, and the facts of the present case, it appears that the trial Judge has rightly come to the conclusion that the punishment of dismissal is shockingly disproportionate and the Complainant employee is entitled to reinstatement without back wages but with continuity of service.

10. On the point of punishment, the Learned Advocate for the Respondent has submitted that the punishment awarded by the Respondent Undertaking is not dispropertionate. In suppoert of his submission, he has relied on 3 cases. One is between Janata Bazar and the Secretary, Sahakari Naukar Sangh reported in *2000 III CLR 568 SC.* In the said case, there were 2 employees and they were dismissed from service on the charges of breach of trust and misapprepriation. On a reference, the Labour Court recorded findings holding that the said charges were clearly established. However, in exercise of the discretion under Sec. 11-A of the I. D. Act, the Labour Court directed reinstatement of both employees with 25% back wages. The Single Judge/Division Bench of the High Court confirmed the award of the Labour Court. On the facts, Their Lordships have held that the law is well settled one that an act of misappropriation is proved, may be for small or large amount, there is no question of showing uncalled for sympathy and reinstating the employee in service and as such the impugned order passed by the High Court and the award of the Labour Court are required to be set aside. In the said case, the amounts involved were valued of goods amounting to Rs. 24,239.97 and Rs. 19,884.06 while the amount involved in the present case is of value of Rs. 1.50 and the amount of one full and one half ticket, which may be Rs. 14/- or Rs. 14.50. Thus, the misconduct/ charges in the present case are not of so serious than the charge in the above referred case. The second case is between D. C. Chaturvedi and Union of India and others, reported in *1996 I CLR 389 SC.* In the said case, the disciplinary authority imposed punishment of dismissal from service on the employee on proof of charge of having in his possession disproportionate assets for which he could not give satisfactory account. The Administrative Tribunal converted the said order of dismissal into one of the compulsory retirement. Therefore, the question before their Lordships was as to whether the Tribunal was justified in interferring with the order of punishment. On considering the facts, Their Lordships have held that the interference in the imposition of punishment was wholely unwarranted because of gravity of the misconduct. The facts of the present case and the facts in the aforesaid case are different. In that case, the disciplinary authority and the enquiry officer reached to the findings on the evidence collected during the enquiry that the emloyee was in possession of Rs. 30,000 in excess of his satisfactorily accounted for assets from his own source of income. Thus, the gravity of the misconduct in the said case is much more than the gravity in the present case. Third case is between Kerala Solvent Extractions Limited and A. Unnikrishnan, reported in *1995 II LLN 968 SC.* The facts in the said case are not similar to the facts in the present case. In that case, it was one of the conditions for eligibility for appointment of the employee that the educational qualification should not be more than 8th standard. The employee had studied upto 10th standard but he suppress the truth for securring appointment. On detection, the service of the employee came to be terminated after enquiry. The Labour Court held that the conduct of the employee did not amount to false representation. In the employer's writ petition, against the said award of the Labour Court, the High Court upheld the order of the Labour Court, on the facts their Lordships depricated misplaced sympathy, generousity and private benevolence.

11. The learned Advocate for the Complainant employee has relied on several decisions, wherein the High Courts/Supreme Court have allowed reinstatement/some reliefs in the similar case. Ohe is between BEST through the Bombay Municipal Corporation and BEST Workers Union in Writ Petition No. 3043 of 2001 decided on 14th January 2002. In the said case, the Labour Court had held that the punishment of dismissal imposed on the workman is shockingly harsh and disproportionate and granted reinstatement in service with continuity of service and 25% back wages. In appeal, the Industrial Court has merely re-affirmed the order of the Labour Court. In the said case, the charge of theft of 8 ball bearings valued at Rs.2361 was proved against the workman. In the circumstances, Their Lordships have held that the Labour Court has rightly exercised its powers vested in it under Sec.78 and 79 of the BIR Act, and the digmissal of the workman is not proper punishnent in the facts and circumstances of the case. It is further held that the workman has been sufficiently punished by depriving him of 75% back wages. The further case is between Bombay Municipal Corporation and General Secretary, BEST Workers Union in Appeal No.515 of 1998 in Writ Petition No. 915 of 1996. In the said case, the learned Counsel appearing for the workman fairly conceded before the Hon'ble High Court/Single Judge that having regard to the facts, the charge understanding order 20 (k) was held proved against the workman and, therefore, the award of full back wages may not be justified and the workman was prepared to accept 50% back wages. The Single Judge accepted the above offer and directed reinstatement with 50% back wages. So considering the facts, Their Lordships / the Hon'ble Division Bench held that the order of the single Judge cannot be faulted with. Further case is between Bombay Municipal Corporation and General Secretary BEST Workers Union in Writ Petition No. 2547 of 1999 decided on 18th October, 1999. In the said case, Their Lordships have held that the order of reinstatament with continuity of service but without back wages given by both the Labour Court and Industrial Court are proper. Further case is between B. V. Makholia and Kemp & Company reported in *1999 I CLR 288 Bombay.* Wherein, it is held by Their Lordship that when there is a slight dishonesty punishment of dismissal is not proper. Further case is between N. M. Shinde and Industrial Court. Aurangabad & others, reported in *1992 II CLR 165 Bombay.* Whrein, it is held by Their Lordships that for a misconduct of misappropriation of revenue amount of Rs.19/-, the punishment of dismissal from service is not proper. Further case is of U. P. S. R. T. Corporation *V/s.* M. K. Mishra, reported in *2000 II CLR 10 SG.* Wherein, it is held by Their Lordships that the punishment of dismissal given to a conductor for issuing short distance tickets held as highly disproportionate. Further case is between Ganapati BEST services and the Presiding Officer, Labour Court & others, reported in *2001 I CLR 596 SC.* In the said case, 3 bus conductors were dismissed from service on the charges such as failure to charge person excess luggage or charging half ticket instead of full ticket. On the facts, it is held by Their Lordships that the punishment of dismissal from service is harsh and shockingly dispropertionate. Further case is between Scootar India Limited and Labour Court, Lucknow, reported in *1989 L & S 180 SC.* Wherein, it is held by Their Lordships that justice must be tempered with mercy and erring person be given an opportunity to reform himself. The last case is between H. K. Puttaswamy and C. J. Karnataka reported in *1991 I CLR 381 SC.* Wherein, it is held by Their Lordship that in case the empleyee having more than 10 years of service a humenitarian approach taken for the appallants seem to deserve justice ruled by mercy. In the present cases, the charges of dishonesty and breach of rules are proved against the Complainant. But the amount involved therein is about Rs. 16 or Rs. 17 Besides the same, the Complainant had worked without any blame or charge continuously for 21 years in the respondent Undertaking. So considering all the facts and the observations in the decisions relied on by the Learned Advocate for the Complainant employee, it appears that the trial Judge has rightly held that the punishment of

dismissal awarded on the Complainant is shockingly dispropertionate and the Complainant is entitled to reinstatement. It also appears that the trial Judge has rightly deprived of the Complainant from back wages to meet the ends of justice. It is also to be noted that the trial Judge has further rightly held that the grave prejudice will be caused to the Complainant employee if he is not given any opportunity to improve himself. Therefore, I have no hesitation to hold that the trial Judge has rightly decided the issue Nos. (2) and (3) and on considering the findings on all the issues, passed the final order directing the respondent Undertaking to reinstate the Complainant employee without back wages, but with continuity of service. In the result, the Point Nos. (1) and (2) are hereby decided in the affirmative.

12. In view of my findings on the Points No. (1) and (2), it is not necessary to interfere with the findings on any of the issues or in the final order dated 10th April, 2001. In the result, the Point No. (3) is hereby decided in the negative. With this, I proceed to pass the following order :—

Order

Revision Application (ULP) No. 105 of 2001 stands hereby dismissed, with no order as to costs.

M. L. HARPALE,
Member,
Industrial Court, Mumbai.

Mumbai,
dated the 22nd April 2003.

K. G. SATHE
Registrar,
Industrial Court, Mumbai.
dated the 2nd May 2003.

———————

IN THE INDUSTRIAL COURT, MAHARASHTRA AT MUMBAI

BEFORE SHRI P. B. SAWANT, MEMBER

COMPLAINT (ULP) No. 186 OF 1990.–Foreign Film Distributors' Employees' Union, C/o. Shri N. K. Dharmrajan, A/6, New Shrenik Society, Ashok Nagar, Nahur Road, Mulund (W.), Bombay 400 080.—*Complainant—Versus*—(1) M/s. 20th Century-Fox Corpn. (India) Private Ltd., Metro House, 3rd floor, M. G. Road, Bombay 400 020., (2) Shri P. V. Prabhu, Managing Director, M/s. 20th Century-Fox Corpn. (India) Private Ltd., Metro House, 3rd Floor, M. G. Road, Bombay 400 020.—*Respondents.*

CORAM.—Shri P. B. Sawant, Member

Appearances.—Shri V. A. Pai, Advocate for Complainant;

Shri B. Menon, Advocate for Respondents.

———

Order

1. The Complainant has filed the complaint against the Respondents alleging that these 2 Respondents have committed unfair labour practices within the meaning of items 1 and 9 of Schdule IV of the M.R.T.U. and P.U.L.P. Act, 1971. The facts which gave rise to the present litigation can be stated in nutshell as below.

2. The Respondent No. 1 is engaged in the business of distribution of foreign filus through India and Srilanka by rendering the services to the 20th Century-Fox India Incorporation. The Respondent has fixed the income on the parent company of Rs. 4,167 p. m. or Rs. 50,000 per year in relation to the business done in India. There is an agreement signed between the Respondent No.1 company and liaison companies of the parent company that the expenses of the Respondent No.1 shall be reimbursed by the liaison office to the extent they relate to the Respondent No. 1's business in respect of the distribution of fereign films obtained through the said liaison office. There is also a separate agreement signad between the Respondent No.1 and the United International Pictures. The Respondent No.1 has been following the practice of filing the Balance-sheets with the Registrar of companies.

3. The Complainant denied that there is a reduction of volume of work and reduction of business. The volume of work which got reduced as a result of the termination of agreement with the Buens Vista International Incorporation. The Complainant is a sole bergaining agent of the employees. The members of the Complainant union Shri Devadiga, Shri Shinde, Shri Rajmane etc. were originally appointed as Stenographers in the year 1983 for 15 months initially and thereafter absorbed in the services of the Respondent No.1 from 1st April 1985. While Mrs. Dias was appointed in the Booking Department from 1985 and after serving for $1^1/_2$ years in the same department as a temporary employee. Shri Shinde was appointed as a Junior Clerk and prior to that worked for the company for 9 months as a temporary employee. However, the services of all these 4 employees were illegally terminated by the Respondent No.1 by letter dated 13th November 1989.

4. On 1st November 1989, one Mrs. Tanna was placed in the manegerial cadre being a Stenographer and, therefore, she was not considered as a workman though her name appeared in the seniority list. Thereafter, the Respondent No.1 by letter dated 30th November 1989 retrenched these 4 employees whose complaints are pending in the Industrial Court against their retrenchment on 28th April 1989. These 4 employees are not aware as to whether their services are being transposed to the parent department or not though the seniority list has been published by the perent department of the company prior to taking action. The reason for termination is false. Mrs. Tanna is junior to the 4 of the above referred members of the Complainant union. Therefore, the action of the retrenchment is totally illegal, without following the provisions of Section 25J etc.

5. There were 7 Stenographers employed in the Respondent company. One of them has resigned and others are working in the Administration and Booking Department. There is sufficient work available to the Stenographers and some time, they are required to work additionally. It is the contention of the Complainant that there is sufficient cause for reinstating all these workmen.

6. It is further pointed out that 4 Computer Machines were installed by transferring those from other place. Such act is violative of provisions of Section 9A as there is no notice of change. About 23 employees are either retired or resigned from the services of the Respondent and one of them was transferred from Mumbai. There are various vacancies arising in the higher categories. The company is having sound financial position even today. Therefore, whatever action taken by the Respondent is illegal and *malafide.* The services of the members of the Complainant union are terminated by way of victimisation as they are being the members of the Complainant union. The Respondent No. 1 has recently entered into an agreement with Motion Pictures export Association of America and N. F. D. C. and there by recoganise with all its expenses. It has never sustained any losses. Therefore, the Respondent No.1 agreed to pay the parent company amounting to Rs.10 crores per year from 1988 to 1991. Considering the huge income available with the Respondent No.1, it is prayed that the action taken by the Respondent against the members of the Complainant union is illegal, *malafide* and, therefore, the present complaint has been filed seeking a declaration to that effect and consequently to reinstate these 4 members of the Complainant union and the Respondent be directed to pay compensation at the rate of 500 p.m. for the period of enforced unemployment. It is also alternatively prayed that the Respondent be directed to deposit the monthly wages of the employees and to deposit the same in the Labour Court. Hence, the present Complaint.

7. The Respondent has resisted the contents in the complaint by filing written statement *vide* Exh. C-7 and denied all the adverse allegations raised in the complaint contending *inter alia* that the complaint is false and frivolous and the same is liable to be dismissed.

8. It is denied that the Respondent has committed any unfair labour practice as alleged and, therefore, it is pointed out that the complaint is devoid of any substance and the same has to be dismissed. It is the first and foremost contention that this Court cannot have jurisdiction under item 1 of Schedule IV and, therefore, the allegations under item 1 of Schedule IV cannot be looked into. In view of the directions given by the Reserve Bank of India of winding up, the Respondent No.1 diverted its shares to Indian citizens and the 20th Century Fox India International Corporation was set up as a liaison office in India and Respondent No.1 became a pure servive company. The Respondent No.1 is responsible for the booking of the films, shipment to executors billing to them etc. The Respondent, therefore, was required to maintain the account of distribution and execution of the pictures and was being paid service fee equal to the actual expenses incurred by it is relation to the services rendered to the principal company and a fixed service fee of Rs.50,000 per year was being paid apart from the reimbursement of the overhead expenses. It is the contention of the Respondent that the Committee was appointed for selection of pictures for import has become harsh in rejecting the pictures which are having commercial value in box office. The first hurdle was of censor board, cuts suggested have lost the original charm of the film effecting the booking of the box office. The billing had also fallen down steeply.

9. On 31st August 1989, a notice was displayed by the Respondent with the seniority list of the employees as on 31st August 1989 which was replied by the Complainant union. A fresh seniority list was prepared after promoting Mrs. Tanna. It is according to the Respondent, that a managerial puragative to promote any one amongst the employees. The promotion to the senior grade depends on seniority and also on efficiancy and the management is the only Judge which can assess properly. In order to economice for the reasons stated for retrenchment, three Stenographers Shri Rajmane, Shri Devadiga and Mrs. Dias and one junior Clerk Shri Shinde were retrenched. The letter of retrenchmant was handed over along with the retrenchment compensation and leave wages. It is the contention that the retrenchment is is accordance with the Industrial Disputes Act. The Respondent has given the explanation about keeping the juniors in service though the others were retrenched. Shri Devadiga and Shri Sinde refused to collect their dues offered to them and they went away and Mrs. Dias was absent on 30th November, 1989. So also the amount of Mrs. Dias was sent towards R. P. A. D. under the demand draft. The other employees one by one came to the office of the Respondent and collected their dues.

10. The seniority list was also given to these employees who are retrenched. Thereafter, the demand of these retrenchad employees for their reinstatement has been turned down by the Respondent and also by letter dated 12th December 1989 sent by postal certificate, it was informed to them that their retrenchment is legal and the request for reinstatement cannot be acceeded. It is the contention Respondent that the retrenchment of these employees is for *bonafide* and genuine reasons after following the procedure laid down under the Industrial Disputes Act. The retrenchment therefore, is also legal and proper. It is further pointed out that the Respondent has displayed V. R. S. on 31st March 1992 and it is explained that in the near about future, it is unlikely that there will be any product supplied from its number in the forcible future and its contention may reiterate further.

11. In all the above situation, what has been alleged by the Respondent has been negative by the Respondent by pointing out that there is no sence of unfair labour practice. In fact, no unfair labour practice is committed and, therefore, prayed that the complaint be dismissed with costs.

12. On these rival contentions of the parties, following points were framed at Exh. O-4 :—

(1) Does the Complainant prove that the Respondents have committed unfair labour practice as alleged in the complaint ?	Partly Yes.
(2) Do the Respondents prove that the retrenchment of 4 workers is legal and proper ?	Affirmative
(3) What order ?	As per final Order.

Reasons

13. *POINT No.1.*— During the course of arguments, the Complainant has submitted that the averments in the complaint pertaining to item 1 of Schedule IV are not being pressed and submitted that the complaint be treated as complaint under item 9 only. Learned Advocate Shri Menon for the Respondent has placed reliance on the observation in a case of *Pepsice India Holdings Pvt. Ltd.* Vs. *Noshir Elavia & Anr. 2002-I-CLR-953.* Hon'ble High court has observed that the Industrial Court has no jurisdiction to try a complaint in which the only grievence is wrongful termination and that substantiative complaint can be entertained only by the Labour Court as it relates to a matter provided in item 1 of Schedule IV of the Act. However, looking into the facts of both the cases, the allegations squarely attrecting item 1 of Schedule IV has now become non-east and the complaint under item 9 of Schedule IV is only remaining. The allegations advorted by the Complainant is against the order of retrenchment of 4 employees. Consequently, it is prayed for setting aside the termination letter dated 30th November 1989 and reinstate 4 members of the Complainant union with all the reliefs. Admittedly, the relief as claimed is of reinstatement. However, there are points also involved in the matter and, therefore, the complaint was continued further inspite of the fact that the Complainant has withdrawn the averment so for as item 1 is concorned.

14. Pursuance to the above situation, I have referred to the earlier order passed by my learned predecessor and during the search of the orders, I have found that my learned predecessor by his order below Exh. U-2 was pleased to direct the Respondent to take back the members of the Complainant union in service with full back wages from 1st December 1989. It appears from record that the said order was challenged in the High Court and Hon'ble High Court directed the Petitioner company to pay 50% of the entire back wages due till July, 1991, in respect of the arrears falling due from the month of August, 1991 onwards. The Petitioner was also directed to deposit with the Industrial Court 50% of the amount of the said wages. It was also directed that the deposit of 50% is to be made without deducting the income tax thereon and the workers were held at liberty to withdraw the amount of 50%. It appears from the record that on an often, the Respondent company is depositing the wages as per the directions of the Hon'ble High Court. In pursuance of the order of the Hon'ble High Court, the Respondents are continuing to deposit the 50% of the wages in the Court.

15. Item 9 of Schedule IV comes into operation as and when there is a breach of any settlement, award or agreement. Admitedly, the service conditions made applicable to the employees or even the appointment letter prescribing the service conditions at the time of appointment itself can become the agreement between the employer and the employee and therefore, any breach of such service conditions may cause an attrection of item 9 of Schedule IV. The appointment letters issued by the Respondent No.1 are one record with Annexure 'A' to Annexure 'D'. The nature of duty to be performed and other service conditions are mentioned in the appointement letter itself. Besides there is a clause of termination of services by giving one month's notice on either side. The same is the condition of service for all the 4 employees who are aggrieved and fighting the cause through the union.

16. In the above context, the letters of termination are dated 30th November 1989 wherein the reasons for retrenching these employees have been mentioned and the services are terminated forthwith by way of retrenchment and by paying wages for one month in lieu of notice in view of the fectual aspect, the retrenchment is being challenged on various grounds including the ground that these aggrieved workmen were not knowing about their transposition of service from one Respondent to another Respondent. It is alleged that mandatory compliance remained to be made by the Respondent. Before considering the reasons for retrenching these workmen, it has to be borns in mind that it is the employer who has to man his business, with the available man power. It is the employer who has to see who should work where and it is the employer to look into the aspect of profitability. In pursuance of that, the employer has to take a decision about the man power in a sence of exceeding the man power or reducing the man power. Obviouly, the employer requires to remain in the fram work of the legal proposition envisaged under Section 25F and 25G read with Rule 81. This fact, therefore, made this Court to look into the process of retrechment and needs to point out as to of whether the retrenchment is attracting item 9 of Schedule IV or not.

17. Shri S. M. Devadiga has led his evidence *vide* Exh. U-1 and points out the service rendered by him and his retrenchment on account of no business with the Respondent company. He points out about the seniority list as was displayed on 31st August 1989 and his assertion that he should not have been retrenched because his seniority has not been maintained. He has reiterated that the junior employees than him are retained in service. *vis.* Mrs. Tanna that she is continude in service. He further asserts about the prospects of the business and having its business at Srilanka also. On this aspect, it is necessary to point out that the seniority list as displayed was having certain eroson and some of the portion has been bracketed. It has been alleged that the bracketed portion was subsequently included without knowledge that too after obtaining the signatures of the employees. Admittedly, the letter of retrenchment issued is having a different type than the bracketed portion. The bracketed portion refers to the refusal of the employee Shri Devadiga in accepting the amount. Therefore, I have referred to the foot note mentioned by the concerned employee. The foot note referring to the seniority list as on 31st August 1989 and not of 30th November 1989. On 1st December 1989 *i. e.* subsequently another note has been written below the same. The handwriting of Shri Devadiga about his refusal to receive the payment. However, he has received it on due consultation. Same is not the position in the other letters of the employees who have consulted with the Legel Advisor and then accepted the payment. The grievance, therefore, put up about the seniority list, is pertaining to Mrs. Tanna and other grievance is pertaining to the additions made subsequently. It has to be borne in mind that even if we accept that there is addition which apparently appears on record having inserted in separate type. The amount was accepted under pretest and without prejudice by the employees on 1st December 1989. The endorsement alleged to have been inserved has been made on 30th November 1989. Therefore, it is clear that the members of the Complainant union have raised an alaram in respect of the seniority list. Therefore, it is clear that the employer has offered the retrenchment compensation immediately on the day when the letter of retrenchment was served on the employees and that the employees had accepted the letter. Therefore, the letter of retrenchment cannot be faulted on this ground, that the retrenchment compensation was not paid or given to the employees concerned on the very day. Therefore, the only question regarding the seniority list is concerned, that has been expressed from the letter issued by the Complainant union by raising a protest by pointing out that Mrs. Tanna is a junior employee in the service.

18. Annexure 'D' refers to the seniority list as on 1st November 1989. In the category of Stenographers, the names of Shri Devadiga and Shri Rajmane are appearing. Their commencement of employment is also given against their names. It is pertinent to note that the employees are enlisted categorywise. Therefore, the letter Annexure 'E' is given by the union raising a query so far as taking Mrs. Tanna being the stenographer into an executive category. It appears that by virtus of the said action, the name of Mrs. Tanna doss not appear in this list. The explanation is given by the employer by Annexure 'A' to the written statement by pointing out that the seniority list put up on the Notice Board has been prepared from the record available with the Respondent. The objection appears to have been raised by the union after the order of retrenchment but only letter was issued to the Managing Director not to take any action against the employees without the knowledge of the union. A letter addressed to Mrs. Tanna Annexure 'C' postulates that on 26th October 1989, she was informed that she has been appointed as Secretary to the Managing Director. The union has raised a protest also against taking her in the executive category. Their further exchange of letters and the same need not be looked into at this juncture because the main point which has been harpened is of flouting the seniority and that of promoting the junior employees to avoid any further complications in retrenching these members of the union who were admittedly senior to Mrs. Tanna.

19. In pursuance to that, witness Shri Hemant Shinde who has deposed *vide* Exh. UW-14. Shri Shinde has pointed out that Shri Manjrekar is junior employee. It is in the evidence of Shri Manjrekar who was only brought before the Court to identify the signatures of the employees.

20. In the above context, the question of illegality, as caused with the hands of the Respondent has been referred to the over-riding rules by retrenching the senior employees than the juniors. This has reflected in the earlier order passed by this Court. It is also pointed out that the copy of the seniority list has not been hended over to these retrenched employees. In para 32, it is pointed out that if the seniority list of 31st August 1989 is accepted, then it violates the rule of "last came first go". The motion behind giving notice prior to retrenchment is only that the prior procedure envisaged under Rule 81 needs to be followed. The categorisation of the employees has been made in the seniority list dated 30th August 1989. Therefore, the retrenchment which was started in the year 1989 was in accordance with the category and thereby the process cannot be followed on that ground.

21. Now the question of compliance of Rule 81 is concerned, the law requires that the common seniority list *i. e.* of all the employees in all the categories is to by published.

22. In the set of these facts, the further averments pertaining to necessity of notice of change has also been envisaged. It is pointed out that the Respondents have introduced computer system in the establishment and thereby is reducing the strength of the existing employees for which the Respondent should have discussion with the union. Learned Advocate, Shri Pai has relied on the observation of Hon'ble Apex Court in a case of S. G. Chemicals which relates to reduction of work strength. According to Shri Pai Advocate, such reduction indicates the change in the service conditions which is violative of Section 9A of the Industrial Disputes Act and thereby item 9 of Schedule IV is attracted. The para (m) on page 13 of the complaint discloses the work-load as being distributed amongst the existing staff. Admittedly, the employees are inter-transferable. The vacancy as and when occured was not tisely being filled in and the work was being coped up by the existing strength of the Stenographers and Clerks. It is also pointed out that the business is not gone down and the business and the gains are steadily increasing. In this context, the termination as being carried out is held to be illegal by the Complainant.

23. The facts as narrated before me has made me to look into the observation of High Court in a case of *Gulf Air, Bombay* Vs. *S. M. Vaze, Member, Industrial Court, Maharashtra, Bombay & Ors., 1994-II-CLR-292.* Hon'ble His Lordship has observed that :—

"A conjoint reading of Section 9A and item 10 of the Fourth Schedule makes it clear that Section 9A is applicable only in cases of proposed change in the conditions of service in respect of any matter specified in the said Schedule Item 10 of the Fourth Schedule with which we are concerned in this case deals with rationalisation, standardisation or improvement of plant which is likely to lead to retrenchment of workmen. Evidently, the emphasis is not on rationelisation but on its likely effect on employment. This interpretation also gets support from Section 9A of the Act which requires a notice to be given to the workmen likely to be effected by such change".

Referring to the observation and the facts imbodied therein in a case in hand, the fact that after the introduction of computer, the Stenographers are removed by way of retrenching them and, therefore, while rationalising and modernising the business, the Respondent has adopted the process of retrenching the employees but unfortunately, has not given any notice of change under Section 9A nor the union has been discussed at large before giving effect to the said retionalisation of retrenching some of the employees who are the members of the Complainant union.

24. The contentions of the Respondent in this regard are exactly contrary because the Respondent asserts that by virtue of the introduction of computers, no change in service conditions has been affected. It is further reiterated that the Complainant inspite of having earlier opportunity has not availed the same for agitating against the introduction, of computers. To clarify this situstion, I have referred to the evidence led on behalf of the Complainant as well as the Respondent. At the outset, it has to be pointed out that the work of a Stenographer or work of typing could be got done by and through the computer. If this facts has been accepted, then obviously, there is syncrony in introduction of computer system and the termination of the employee like the members of the Complainant union. Therefore, it is very clear that the introduction of computer has found these 3 employees as surplus. Therefore, such surplus employees has resulted into the retrenchment of the employees. If this position has been reckoned, then the question of disbelieving the need of a notice of change is required to be looked into. The oral evidence on record indicates that the witness of the company has not aware as to whether any notice of change was given nor about any letter written by the union to the company regarding introduction of computers. It has been submitted vehemently by learned Advocate Shri Menan that there is no evidence that in fact any change of the service conditions has been introduced after inducting the computers. In my opinion, the employees when found to be surplus after inducting of computer, itself is sufficient to hold that these employees have brought ahead the need of notice of change.

25. It is further to be noted that the Respondent company does not dispute about the inrtoduction of computer system. The Complainant linkages the introduction of computer system with the departure of these employees. Therefore, the linkages between these 2 instances has to be pointed out as a resultant outcome of the introduction of new system *i. e.* computerisation.

26. Coming back to the order of retrenchment again, to clarify the legality occured if any while issuing such letters, I have referred to the impugned letters as produced before the Court. Much hue end cry is made by and on behalf of the Complainant so far as these letters are concerned. It relates to the relationship of these retrenched employees with Respondent No.1 and Respondent No. 2. The nominclature of these 2 Respondents on page No. 1 Exh. U-1 discloses that the Respondent No.1 is "M/s 20th Century-Fox Corporation (India) Pvt. Ltd". It is a private limited company incorporated under the provisions of Companies Act having its office at Metro House, 3rd floor, M. G. Road, Mumbai and Respondent No. 2 is the Managing Director of Respondent No. 1. It is the submission of learned Advocate Shri Pai that these employees are retrenched by the company by name "M/s. Twentyeth Century Fox (India) Incorpn." and not by 20th Century-Fox Corporation (India) Pvt. Ltd. The agreement dated 29th November 1981 produced along with Exh. C-4 discloses that it is an agreement between Twenteeth Century-Fox (India) Incorpn. having office at M/s Crawford Balay and Company and between the 20th Century-Fox Corporation (India) Pvt. Ltd. which is an Indian company having its office at Metro House. By virtue of this fact, it is clear that these are the two distinct companies have entered into an agreement. Therefore, the appointment letters produced along with Exh. U-1 of all the 4 employees disclose that the address of the company is at Metro House, *i. e.* of Respondent No. 1. As against this, the letter correspondence with Exh.-C-11 discloses that the letter addressed to Shri Prabhu who has signed on letter of retrenchment in a capacity as the Managing Director of Respondent No.1. This anamouly really appears on record and it has not been properly explained by the Respondent. The said anomouly has arisen which could divert the entire arguments of the Complainant.

27. It is the submission on behalf of the Respondent that plain reading of the retrenchment notice refers to the previous retrenchment effected by the Respondent No. 1 and, therefore, the Court should take into consideration the real narrative and purpose of the letter. He has also pointed out that the parties are well awate as to who has terminated who because Shri Prabhu has been made as a party to the proceeding. Shri Menon Advocate has vehemently submitted that on the statement of accounts, these workmen never have raised any uplaws about the designation, status of the Respondent and that the act on the part of the workers of accepting the retrenchment compensation may be under protest itself go to show that the Respondent No. 1 has terminated their services.

28. Considering both the rival contentions, it is transpired that though the point raised on behalf of the Complainant is crucial but the submissions to that effect are too technical. The technicality can be cured as it has tried to substantiate on page No.2 to the page No. 1 has been annexed through oversight with the hands of the concerned typist. It is, therefore, a man made mistake and not a mistake affecting the legality of the matter. The Court should not be so strict on such technicality as the law recognises the intention first and the intention was well expressed from the letter itself. Having regard to these contentions, I switched over to the other aspect as being raised to raise an alarm against the order of retrenchment.

29. Section 25G leys down a rule for retrenching the employee. It says that while retrenching an employee the junior most to go first and thereby rule embodied is “last come first go”. The rule can be enunciated by referring to the seniority list mentioned by the employer. The employer before retrenching the employee has to, 7 days in prior display the seniority list. While referring to the seniority list on which the Respondent No.1 is relying, it is abundantly clear that Mrs. Tanna was junior employee than the retrenched employee in the category which they are Shri Devadiga and Mrs. Dias falling. The list dated 31st August 1989 is disclosing the said position and inspite of that Mrs. Tanna came to be promoted in managerial cadre with a view to save her services. It is true that promoting an employee depends upon the skill and caliber together with the seniority. There cannot be a second opinion about the promoting Mrs. Tanna but the question that in the seniority list of 31st August 1989, Mrs. Tanna was shown as Junior to that of Shri Devadiga and Mrs. Dias, then her promotion in a managerial cadre definitely will raise the eye brows.

30. The Respondent seems to have relied on the seniority list dated 3rd November 1989. In fact, the said seniority list was of no avail for these employees. The endorsements on the said seniority list are also raising certain vital aspect so far as the proper maintenance of seniority list and displaying it before the retrenchment.

31. Besides Shri Shinde, who is also one of the retrenched employee was senior to that of Shri Manjrekar. Shri Manjrekar being junior was retained in service for oblique reasons which are explained by the Respondent saying that the father of Shri Manjrekar has served the company loyaly and thereby has to be accommodated being the only earning member in the family. In this situation, obviously the question arises as to whether the accommodation of the relative of the employee whether has been approved and agreed notion or not. Admittedly, no document is coming forth for such settlement or agreement. Apart from that the law recognises the seniority which has been maintained previously. The rule, therefore, does not envisages any exclusion clause or proviso clause to the general rule. Therefore, in absence of rule to the contrary mode adopted by the Respondent for keeping Shri Manjrekar in service and retrenching Shri Shinde is bad in law.

32. Learned Advocate Shri Pai has further vehemently relied of the business fetched by the company and booking percentage at Mumbai and all India basis. This appears to be for the reasons given in the retrenchment letter and, therefore, Shri Pai, Advocate intends to clarify this particular position by various datas and examples. In my opinion, the justifiability behind retrenching the employee need not be looked into that too when the retrenchment itself is bad on the legal aspects. The rule of “last come first go” has not been followed. The letter of retrenchment is not properly drafted. These are prominent aspects in considering the

retrenchment as bad in law, then the justifiability or whether there were circumstances indicating the possibility of these employees' retrenchment needs no clarification. Secondly, it is the employer who has to man his business with available man power. It is quite obvious that the employer shall see that the business shall run in profits and not in loss. Therefore, while maintaining the ratio of profitability and the available man power, if the employer has taken certain measures within the frame work of law, then the said act should not necessarily be looked with suspicious view. However, it is always necessary that the employee should work in a legal frams work and shall follow all the legal proposition failing which entire action desires to be interfered with. With these understanding, the elaborated details given by learned Advocate Shri Pai is kept open as the retrenchment through letters has been mentioned as averred in the earlier discussion.

33. In the above circumstances, the question of following of unfair labour practice, therefore, shall come into as admittedly, the question regarding the applicability of item 1 of Schedule IV has been considered by this Court in the earlier discussion. The case as being put up by the Complainant needs a careful consideration. The Complainant has pointed out that their contentions so far as termination simplicitor has not been pressed by them so far item 1 is concerned. However, they are pressing the same through item 9 of Schedule IV. In this position, the qustion admittedly is being raised by referring to the observations of our High Court in a case of *Bombay Transport & Dock Workers Union* Vs. *Aryadoot Transport Ltd. & Ors. 2002-I-CLR-699*. It was a case of termination of service of the workman violating Section 25P and 25G. Hon'ble His Lordship has held that such unfair labour practice shall fall within the meaning of item 9 of Schedule IV and the Complainant did not go to the Labour Court. The crucial observation of Hon'ble His Lordship is referring to the observation of Hon'ble Apex Court in a case of *S. G. Chemicals and Dyes Trading Employees' Union* Vs. *S. G. Chemicals and Dyes Trading Limited and another, 1986-I-LLJ-490* wherein it is held that the word "agreement" in item 9 of Schedule IV will have to be construed in the wider sense so as to include not only the Award and settlement but also the statutory provisions like Sections 25F and 25G of the Industrial Disputes Act. It was observed that the obligetion created under Sections 25F and 25G though contain in an enactment in true substence partake character of contractual terms. They are, therefore, preimposed upon the terms of contract of employment or the provisions of Standing Orders regarding the same. They are thus, treated as implied terms of contract and, therefore, the provisions of Section 25F and Section 25G would form implied terms of contract of service and if there is failure to comply with the same, the action would amount to failure to implement the "agreement" within the meaning of item 9 of Schedule IV of the Act.

34. In view of the above discussion held by me in the earlier paragraphs, the breach of seniority list or flouting the rules for causing the retrenchment itself is sufficient to hold that such is a case wherein the retrenchment has to be marked as illegal and not proper.

35. In view of the above contentions and facts similar to that of the earlier case referred by me the observations in a case of Pepsico India Pvt. Ltd. (Supra) are not considered because there is basic factual difference. The Respondent's employees were terminated the services on account of misconduct of absence. Such is not the case in case in hand. The Complainant has relied on the observation of *Cricket Club of India & Anr.* Vs. *Mrs. Baljit Shyam, 1998-I-CLR-570* wherein it is held that the letter of appointment would constitute the agreement between the parties and this would attract item 9 of Schedule IV being breached of an agreement. In a case of *A-Z Industrial Co-op. Society Ltd.* Vs. *A. T. Utekar, 1997-II-CLR-1033,* the Respondent points out that Hon'ble His Lordship has hold that the Industrial Court has no jurisdiction to try the present complaint as the unfair labour practice alleged in attracting item 1 of Schedule IV. In view of this contention, the only aspect requires to be looked into is that of termination of service has been affected in whatsoever manner it be. The termination, therefore, is by way of committing breach of the appointment letter as no proper compliance of the principle of "last come first go" has been done. Therefore, the Respondent has committed unfair labour practise. With this and other grounds as elaborately discussed earlier, I have given my finding to the point in the affirmative.

36. *POINT No. 2.*— Considering the submissions on record, the previous instances as occured during the pendency of the complaint indicates that my predecessor was pleased to reinstate these employees at the interim stage. The matter has gone to the Hon'ble High Court in Writ Petition No. 2299 of 1991. Hon'ble His Lordship was pleased to confirm the order to the extent of grant of 50% of the back wages and set aside the order of reinstatement. It is canvassed before the Court that since the final relief has been granted at the interim stage, the order has been interfered with. However, at the final stage of the matter, I have found that there are just grounds to reinstate these employees with continuity of service. The consequential relief as claimed by the Complainant is the same pertaining to the continuity of service and back wages. So far as back wages are concerned, as per the order of the Court, it is reported before the Court that the entire back wages to the extent of 50% has been deposited and the same has been withdrawn by each of the employees. Having regard to this fact, the question remained about paying the remaining part of wages *i. e.* remaining 50% of wages.

37. It has been vehemently submitted on behalf of the Complainant that they are entitled for the back wages to the full extent *i.e.* for the remaining part of the wages *i. e.* remaining 50% of wages also. Shri Pai Advocate for the Complainant has relied on the observation of Hon'ble Division Bench of our High Court in a case of *Changunabai Chanoo Palkar* Vs. *Khatau Makanji Mills Ltd., & Anr., 1992-I-CLR-660.* In para 16 of the Judgment, Hon'ble Their Lordship have held that the dismissal order was void, *ab initio* since no chargesheet was served and no enquiry proceeded in accordance with the law. The finding of misconduct passive participation in the illegal strike came to be recorded for the first time in the course of industrial adjudication. The normal relief under such circumstances is reinstatement with full back wages since predating of the award would have no logical sanction. The reinstatment of setting aside of a termination which was void *ab initio* was not compationate gesture. It was a legitimate right. The claim for back wages at the legal foundation denial thereof must be based on rational and realistic grounds formulated on the consideration on the entire set of circumstances. Here in this case, the Respondent has also led evidence showing the gainful employment of these employees. The Respondent has also prayed for grant of no back wages as because the proceeding has been delayed in the Court and the costs should not be saddled on the employer for paying the entire back wages for the period in between the litigation was found pending in the Court. Having regard to this rival submission and the rule laid down in the case referred above, it is virtually clear that these are the employees who are retrenched from service and not being terminated for any misconduct on their part. Therefore, when the Court comes to the conclusion that the retrenchment is defective in law, their reinstatement is the natural phenomina and they are entitled for the reinstatement. They are also entitled for the consequential relief for continuity of service from the date when they were retrenched. In this circumstances, the question of back wages has already dealt with by the Hon'ble High Court by awarding 50% of the back wages which are being promptly deposited by the Respondent and promptly being withdrawn by the Complainant. The amount of 50% has been received by these employees without doing any work for the Respondent. Apart from that aspect, the question is that there is no termination as such. Therefore, the illegality caused is on account of the reasons clarified in the earlier discussion and on that ground, the retrenchment has been set aside.

38. In the above circumstances, on the reinstatement, there is normal rule that the back wages shall follow the reinstatement. The normal rule can be departed with if there is any contrary evidence showing the gainful employment of the employees concerned and that the back wages can only be denied, on account of compensating the punishment awarded to the employees. Therefore, the rule in this situation is that the gainful employment of the employees concerned has to be established by the employer and simultaneously, the employee has to point out by his affidavit or specific evidence that he was employed somewhere and gained the amount in the intermitant idle period. This changed situation has arisen recently because it is not the employer who is expected to go from piller to post to enquire about the gainful employment of the employee concerned. Therefore, it is the employee who is in know of the fact about his self employment and the gainful employment during the intermitant idle period. Therefore, he has to establish or explain the said position before the Court.

39. Learned Advocate Shri Pai has relied on the observation of Hon'ble Apex Court in a case of *Rajinder Kumar Kindra* Vs. *Delhi Administration through Secretary(Labour) and Ors. Supreme Court Labour Cases 1981/90 Vol. III-115* Hon'ble Their Lordships have explained the term gainful employment by pointing out that an employee and family members if are residing with his father-in-law and helping him in his business, the said cannot be said to be a gainful employment. If this is gainful employment, the employee can contend that the dismissed employee in order to keep his body and soul together had taken to beging that would as well be a gainful employment.

40. In pursuance of these observations and guidelines given by the Hon'ble Apex Court, I have referred to the evidence on record. The Respondent has examined two witnesses to point out the gainful employment of the employees. The witness Shri Himanshu Choudhary Ex.C-13 has pointed out that he is Investigater in I. B. I. Detective Pvt. Ltd. He was instructed by his superior to investigete the case of Shri Shinde and on enquiry he found that Shri Shinde is the owner of Purva Medical Stores. To substantiate his contention, he has purchased some medicines and obtainad receipts from Shri Shinde and the receipt is put up before the Court. He has also made investigation pertaining to Shri Devadiga. He enquired with the workmen and found that Shri Devadiga is dealing with the business of Footwers shop known as "Mangal Footwear Shop". He purchased a canvas shoes. He has also noticed that there is a ration shop business and oil depot. by name Prasad Oil Depot standing in the name of Shri Devadiga. So for as Shri Rajmamani is concerned, he found that he has Transworld Shipping at Gandhidham at Gujrat and he is a Cashier in the said Transworld shipping. Having gone through the evidence, I have found that the Respondent has made efforts to bring home the fact of these employees keeping themselves engeged in some business so that they can earn for them and their family members. This has to keep the body and soul together and obviously these employees are being able bodied persons naturally can earn themselves and for their family.

41. The submissions of the earliner witness of Datective Agency has been substantiated by the evidence of Shri Joshi who is working as Assistant Commissioner in Food and Drug Administration. He accepts that Shri Shinde applied for the licence and the licence was issued to him on 7th September 1995. Therefore, the fact that Shri Shinde is having licence under Druges and Cospeties Act has affirmed the contention that he is running a medical shop. This is also substantiated by the purchase receipt produced by the witness. The necessary documents in form No. 19 and 19B are also produced on record *vide* Exh. CA-22. In this situation, though the material available in respect of Shri Shinde, the material so far as Shri Devadiga and Shri Rajmani is concerned, has tried to be substantiated by the evidence of the Respondent. On the other hand, these employees have not tried to disclose their income or has asserted that they are not gainfully employed anywhere. Therefore, it is very clear that these employees especially Shri Shinde, Shri Devadiga etc. have tried to suppress the material facts of their doing activities for earning for themselves and family members during the intermitant idle period. Hon'ble our High Court has in this regard in a case of *Indiana Engineering Works (Bombay) Pvt. Ltd.* Vs. *The Presiding Officer, 5th Labour Court, 1995-II-CLR-890* has ruled that dismissed workman also owes a duty to the industrial adjudicator to honestly disclose full particulars of the facts of his gainful employment which are purely within his knowledge and that any attempt to mislead the Tribunal must surely be looked at askance. With due regard to these observations, I have found that at one place, these workmen have not disclosed their income at second place, they have escaped the material facts from the Court and thirdly, the Respondent has made efforts to lead evidence to create circumstance of employees' having engaged in some employment during the intermitant idle period. Therefore, I am of the view that whatever order pessed by the Hon'ble High Court in Writ Petition No. 2299 of 1991 for grant of 50% of the back wages

has to be maintained and the employees are entitled for 50% of the back wages only from the date of their retrenchment till the date of this order. They are not entitled for the remaining part of 50% amount for the reasons stated earlier. With this discussion, I have given my findings to the points accordingly and pass the following order :—

Order

(*i*) The Complaint is partly allowed.

(*ii*) It is hereby declared that the Respondents have committed unfair labour practice within the meaning of item 9 of Schedule IV of the M.R.T.U. and P.U.L.P. Act. The Respondents are directed to desist permanently from continuing to follow such unfair labour prectice by reinstating the employees by name Shri Devadiga, Shinde and Rajmani in their original post with continuity of service and 50% back wages forthwith.

(*iii*) Since the 50% of the back wages as ordered above have been deposited till the date by the Respondent, there shall be no Separate order directing the Respondents to deposit those 50% of the back wages in the Court.

No order as to costs.

P. B. SAWANT,
Member,
Industrial Court, Mumbai.

Mumbai,
Dated the 3rd December 2002.

K. G. SATHE,
Registrar,
Industrial Court, Mumbai.
Dated the 9th December 2002.

———————

BEFORE IN THE INDUSTRIAL COURT, MAHARASHTRA AT KOLHAPUR

REVISION APPLICATION (ULP) No. 9 OF 2003.—Shri Jatish Janardan Khedekar, R/o. Kumbharli, Post Shirgaon, Tal. Chiplun, Dist. Ratnagiri—*Petitioner—Versus*—Chiplun Urban Co-operative Bank Ltd., Main Road, Chiplun—*Respondents.*

In the matter of : Revision u/s 44 of the MRTU and PULP Act.

Coram.—C. A. Jadhav, Member.

Appearances—Shri D. S. Desai, Advocate for the Petitioner.

Shri R. L. Chavan, Advocate for the Respondents.

Judgement

1. This is a Revision by original Complainant challenging legality of order passed below Exh. U-2 in Complaint (ULP) No.101/2001, whereby relief of his interim temporary reinstatement is refused by rejecting his interim application.

2. Admittedly, present Petitioner (hereinafter referred to as the Complainant) was is employment of present Respondent (hereinafter referred to as the Bank) as a clerk. He was served with chargesheet dated 16th December 1999 alleging various misconducts. Then an enquiry took place. Ultimately, he was dismissed by order dated 30th March 2001.

3. Above complaint was filed on 9th April 2001, *inter alia,* contending that the enquiry was a farce and findings of the Enquiry Officer are totally perverse. In fact, the complainant has no nexus with the alleged misappropriation. He was simply working as a clerk and made entries in the ledger after concerned cheques were passed by the Manager. Even then, the Enquiry Officer illegal held that the charges are proved. According to the Complainant, therefore, his dismissal is an unfair labour practice under items 1 (*a*), (*b*), (*d*), (*f*) and (*j*) of Sch. IV of the MRTU and PULP Act. He made an application under section 30 (2) of the MRTU and PULP Act to direct the Bank to temporarily allow him to join duties, till decision of main complaint.

4. The Bank filed its say cum wtitten statement at Exh. C-16 contending that the Complainant was working under concerned Branch Manager. The Complainant, concerned Branch Manager and concerned Cashier misappropriated the amount of Rs. 9,83,029 in collusion with each other. The Branch Manager is dismissed from service after an enquiry. Legal chargesheets were issued against the complainant and the cashier. Sufficient opportunity was given to the Complainant in the enquiry. Findings of the Enquiry Officer are legal and proper. Proved misconducts are grave and serious and punishment of dismissal is legal and proper. Thus, the Bank justified its action and prayed for dismismal of interim application (Exh. U-2) as well as the complaint.

5. The Complainant produced copies of Audit Report, enquiry papers and final dismissal order. Learned Labour Court, on perusal of material produced on record and hearing both parties, observed that all averments raised by the complainant cannot be decided at the interlocutory stage and needs to be decided while deciding the complaint finally. It, therefore, held that no *prima facie* case of unfair Labour practice is made out and rejected interim application (Exh. U-2) by order dated 5th October 2002. The same is challenged in this Revision.

6. I heard both Advocates. Considering rival submissions, following points, arise for my determination :—

(*i*) Whether impugned decision refusing to grant interim relief, is justifiable?

(*ii*) What order?

7. My findings, on above points, are as under :—

(*i*) Yes.

(*ii*) The Revision Application is dismissed.

Reasons

8. This being a Revision under section 44 of the MRTU and PULP Act, it is not necessary to crutinise rival contentions meticulously. The only material question is whether documents on record are incapable of supporting impugned order? In other words, whether impugned order is perverse or justifiable.

9. Shri Desai, Learned Advocate representing the Complainant argued that the Complainant was examined as management's witness in the enquiry initiated against the Branch Manager and it is held in that enquiry that the Branch Manager is responsible for alleged misappropriation. Even then the Complainant is now made a scape-goat. He then pointed out some portions from cross-examination of management's witness Shri Dalavi. He then canvassed that *prima facie,* the Branch Manager is responsible for passing the cheques and the Complainant has no nexus with the misappropriation. Finally, be submitted that this material aspect was totally ignored by the Labour Court.

10. Shri Chavan, Learned Advocate representing the Bank replied that the enquiry papers cannot be appreciated in a piecemeal manner. Findings of the Enquiry Officer are supported by evidence. Proved misconduct is of froud and misappropriation and hence no *prima-facie* case of an unfair labour practice is made out.

11. Admittedly, an independant enquiry officer was appointed. Therefore, at this stage, it is difficult to accept that the enquiry was a force. Meticulous scruitiny of enquiry papers is unwarranted, at this stage. All everments of the Complainants needs to be adjudicated while deciding the complaint finally. Enquiry report is not produced on record by either of the parties. Consequently, one cannot jump to the conclusion that findings of the Enquiry Officer are perverse. Even otherwise, it will be proper to decide alleged perversity of finding of the Enquiry Officer While deciding the complaint finally. I, therefore, find that Learned Labour Court has rightly refused to grant the interim rellef. Accordingly, I answer Point No. 1 in the affirmative.

12. Shri Desai further submitted that the Complainant has full chance of final success in the complaint, is out of employment for no fault and hence the Labour Court be directed to decide the complaint expeditiously. Shri Chavan did not object for urgent hearing of main complaint.

13. Learned Labour Court is already overburdened. Hewever, considering peculiar facts and circumstances of this case, the Labour Court is directed to decide the main complaint within one year from today.

14. To conclude I pass following order :—

Order

(*i*) The Revision Application is dismissed.

(*ii*) The Labour Court is directed to decide the complaint within one year from to day.

(*iii*) R. & P. be sent to Labour Court forthwith and the parties shall appear there on 8th April 2003.

(*iv*) Parties to bear their own costs.

C. A. JADHAV,
Member,
Industrial Court, Kolhapur.

Kolhapur,
Dated the 25th March 2003.

V. D. PARDESHI,
Asstt. Registrar,
Industrial Court, Kolhapur.

पुढील अधिसूचना इत्यादी असाधारण राजपत्र म्हणून त्यांच्यासमोर दर्शविलेल्या दिनांकांना प्रसिद्ध झाल्या आहेत :—

४९

मंगळवार, मे ७, २०१३/वैशाख १७, शके १९३५

उद्योग, ऊर्जा व कामगार विभाग

मंत्रालय, मुंबई ४०० ०३२, दिनांक ७ मे २०१३.

अधिसूचना

महाराष्ट्र खाजगी सुरक्षा रक्षक (नोकरीचे नियमन व कल्याण) अधिनियम, १९८१.

क्रमांक एसजीए.२०१३/प्र.क्र.१५३/काम-५.—ज्याअर्थी, ज्यांचे नाव यासोबत जोडलेल्या अनुसूची एकच्या स्तंभ (२) मध्ये नमूद केलेले आहे अशा एका सुरक्षा रक्षकास (यात यापुढे ज्याचा उल्लेख "उक्त सुरक्षा रक्षक" असा करण्यात आला आहे.), उक्त अनुसूची एकच्या स्तंभ (४) मध्ये नमूद केलेल्या एका मुख्य मालकाकडे कामावर ठेवलेले आहे, अशा मे. युनायटेड फोर फॅसिलीटी ॲण्ड सिक्युरिटी सर्व्हिसेस (रायगड), ३०, ए विंग, ८, संखेश्वरनगर सोसायटी, मानपाडा रोड, शनि मंदिरजवळ, डोंबिवली (पूर्व), जिल्हा-ठाणे, मालक : श्री. तुषार मधुकर चित्रे यांनी महाराष्ट्र खाजगी सुरक्षा रक्षक (नोकरीचे नियमन व कल्याण) अधिनियम, १९८१ (१९८१ चा महा. ५८), याच्या कलम २३ अन्वये, उक्त अधिनियमाच्या सर्व तरतुदी आणि महाराष्ट्र खाजगी सुरक्षा रक्षक (नोकरीचे नियमन व कल्याण) योजना, २००२ (यात यापुढे ज्याचा उल्लेख "उक्त योजना" असा करण्यात आला आहे) यांच्या अंमलबजावणीतून सूट मिळण्यासाठी अर्ज केला आहे ;

आणि ज्याअर्थी, सल्लागार समितीशी विचारविनिमय केल्यानंतर व उक्त सुरक्षा रक्षकांना मिळत असलेल्या लाभांची पडताळणी केल्यानंतर, त्यांना मिळत असणारे लाभ, हे उक्त अधिनियमांद्वारे व त्या अधिनियमांन्वये आणि उक्त योजनेद्वारे व तद्न्वये तरतूद केलेल्या लाभांपेक्षा एकंदरीत पाहता कमी फायदेशीर नाहीत, असे महाराष्ट्र शासनाचे मत झालेले आहे;

त्याअर्थी, आता, महाराष्ट्र खाजगी सुरक्षा रक्षक (नोकरीचे नियमन व कल्याण) अधिनियम, १९८१ याच्या कलम २३ अन्वये प्रदान केलेल्या अधिकारांचा वापर करून, महाराष्ट्र शासन, याद्वारे उक्त अधिनियमाच्या व उक्त योजनेच्या सर्व तरतुदींच्या अंमलबजावणीतून उक्त खाजगी सुरक्षा रक्षकास, यासोबत जोडलेल्या अनुसूची-दोनमध्ये विनिर्दिष्ट केलेल्या शर्तींच्या अधीन राहून, ही अधिसूचना प्रसिद्ध केल्याच्या दिनांकापासून तीन वर्षांच्या कालावधीसाठी सूट देण्यात येत आहे.

अनुसूची-एक

अ. क्र. (१)	सुरक्षा रक्षकाचे नाव (२)	वर्ग (३)	मुख्य मालकाचे नाव व पत्ता (४)
१	श्री. नंदकुमार नागनाथ कुलकर्णी	सुरक्षा रक्षक	मे. एबीसी, काँप्युटर, कोहिनूर इन्स्टीट्युटजवळ, सोसायटी टेंपो स्टँडसमोर, पनवेल, जिल्हा रायगड.

टीप.––महाराष्ट्र शासन या सुरक्षा रक्षकांबाबत कोणत्याही प्रकारची हमी घेत नाही. मुख्य मालक स्वत:च्या जबाबदारीवर सुरक्षा रक्षकांना कामे देऊ शकतात.

अनुसूची दोन

मालक एजन्सीने व मुख्य मालकांनी पाळावयाच्या शर्ती

१. **पोलीस तपासणी.—**सुरक्षा रक्षकांच्या तसेच एजन्सीच्या मालकांच्या पूर्व-इतिहासाबाबत पोलीस पडताळणी दाखला तसेच एजन्सीकडे केंद्र शासनाच्या खाजगी सुरक्षा रक्षक (नियमन) कायदा, २००५ अंतर्गत परवाना असणे आवश्यक असेल.

२. **प्रशिक्षण.—**सुरक्षा रक्षकांना नियुक्त करण्यापूर्वी पुरेसे प्रशिक्षण देणे आवश्यक असेल.

३. **शैक्षणिक, शारीरिक आणि इतर पात्रता.—**सुरक्षा रक्षकांची शैक्षणिक व शारीरिक पात्रता पुढीलप्रमाणे असेल :–

किमान शैक्षणिक पात्रता.—इयत्ता ८ वी उत्तीर्ण.

शारीरिक पात्रता.– (अ) (१) उंची १६२ सें. मी.,

(२) वजन ५० किलो,

(३) छाती न फुगवता - ७९ सें. मी.,

फुगवून ८४ सें. मी.,

(४) नजर दृष्टी चष्मा असल्यास, नंबर जास्त नसावा.

(ब) आदिवासी उमेदवारांना उंचीमध्ये ५ सें.मी. व छातीमध्ये २ सें.मी.ची सवलत देण्यात यावी.

४. **लाभ.—**सुरक्षा रक्षकांना पुढील लाभ मिळतील :–

(अ) गणवेश प्रत्येक वर्षाला २ जोड.

(ब) चामडी बूट प्रत्येक वर्षात १ जोड.

(क) पावसाळी व हिवाळी गणवेश–(२ वर्षांतून एकदा) रेनकोट, ट्राऊझर, टोपी, वूलन कोट व पँट.

५. **वेतन व इतर कायदेशीर सवलती.—**सूट दिलेल्या सुरक्षा रक्षकाने राष्ट्रीयीकृत बँकेमध्ये आपले खाते उघडावे व मालक एजन्सीने मुख्य मालकाकडे तैनात केलेल्या सुरक्षा रक्षकांच्या देय वेतनाच्या रकमेइतका रेखांकित धनादेश ७ तारखेपर्यंत वैयक्तिकरित्या सुरक्षा रक्षकास द्यावा. सुरक्षा रक्षकास दिलेल्या वेतनाबाबतचे सविस्तर तपशील नमुना " क " मधील विवरणपत्रामध्ये भरून सुरक्षा रक्षक मंडळास दर महिन्याच्या १० तारखेपर्यंत पाठवावे. मालक एजन्सीने खाली दर्शविल्याप्रमाणे लाभ सुरक्षा रक्षकांना द्यावेत :–

सानुग्रह अनुदान	:	वेतनाच्या १० टक्के
उपदान	:	वेतनाच्या ४ टक्के
भरपगारी रजा	:	वेतनाच्या ६ टक्के
भरपगारी सुट्टी	:	वेतनाच्या १ टक्का.

सुरक्षा रक्षकांना लागू असलेल्या भविष्यनिर्वाह निधी व कामगार राज्य विमा योजना यांच्या वजाती मालक एजन्सीने परस्पर संबंधित प्राधिकरणाकडे जमा कराव्यात आणि त्यांचे चलन माहितीसाठी मंडळास सादर करावे. मालक एजन्सीने भरणा केलेल्या भविष्यनिर्वाह निधी व कामगार राज्य विमा योजनेच्या वजातीबाबतच्या पावत्या/चलन सुरक्षा रक्षकांना नियमितपणे देऊन त्या संदर्भातील एकत्रित तपशील शासनास, कामगार आयुक्त कार्यालयास व सुरक्षा रक्षक मंडळास प्रत्येक ६ महिन्यांनी सादर करावा, असे न केल्यास, मालक एजन्सीला जबाबदार धरून दिलेली सूट रद्द करण्यात येईल.

६. **अतिकालिक भत्ता.—**सुरक्षा रक्षकांना मिळणारा अतिकालिक भत्ता हा, मंडळाने नोंदीत सुरक्षा रक्षकांसाठी निश्चित केलेल्या वेतन दराच्या दुप्पट दरापेक्षा कमी नसावा, याबाबत संबंधित मुख्य मालकाची अंतिम जबाबदारी राहील.

सुरक्षा रक्षकांना देय वेतन व लाभ देणे मुख्य मालकांची जबाबदारी असून मुख्य मालकाने त्यांच्याकडे तैनात करण्यात आलेल्या सुरक्षा रक्षकांना अधिनियम आणि योजनेतील तरतुदींनुसार वेतन व लाभ मिळत आहेत, याची खात्री करून घेणे बंधनकारक असेल.

७. **विवरणपत्र सादर करणे.**—(अ) **त्रैमासिक विवरणपत्र.**—मालक एजन्सीजने सुरक्षा रक्षकांच्या नियुक्तीबाबतचे त्रैमासिक विवरणपत्र प्रत्येक त्रैमासिकाच्या (जानेवारी, एप्रिल, जुलै व ऑक्टोबर महिन्यांच्या) पहिल्या आठवड्यात सोबत जोडलेल्या नमुना " अ " मध्ये शासन, कामगार आयुक्त आणि सुरक्षा रक्षक मंडळास सादर करावे.

(ब) **सहामाही विवरणपत्र.**—(१) नियुक्त केलेल्या, नोकरी सोडून गेलेल्या आणि नव्याने भरती केलेल्या सुरक्षा रक्षकांबाबतचे विवरणपत्र दर ६ महिन्यांनी सोबत जोडलेल्या नमुना " ब " मध्ये शासन, कामगार आयुक्त आणि सुरक्षा रक्षक मंडळ यांना एजन्सीने सादर करावे.

(२) भविष्यनिर्वाह निधी व राज्य कामगार विमा योजनेची वर्गणी एजन्सीने नियमित भरून संबंधित सुरक्षा रक्षकांना त्यासंबंधी वेळोवेळी पावत्या द्याव्यात व दर सहा महिन्यांत तसे केल्याबाबतचा अहवाल शासनास, कामगार आयुक्त व सुरक्षा रक्षक मंडळास द्यावा.

(३) यापूर्वीच्या भविष्यनिर्वाह निधीच्या रकमा व राज्य कामगार विमा योजनेची वर्गणी भरल्याबाबतचा पुरावा शासनाकडे सदर अधिसूचना निर्गमित झाल्यापासून तीन महिन्यांच्या आत सादर करावा. अन्यथा संबंधित सुरक्षा रक्षकांना देण्यात आलेली सूट रद्द करण्यात येईल.

(क) **वार्षिक विवरणपत्र.**—प्रत्येक मालक एजन्सीने, सनदी लेखापाल यांनी प्रमाणित केलेले वार्षिक विवरणपत्र सोबत जोडलेल्या नमुना " ड " मध्ये दरवर्षी ३० जूनपर्यंत शासनास तसेच मंडळास सादर करावे. ज्यात एजन्सीने भरलेला आयकर, सुरक्षा रक्षकांचा जमा केलेला भविष्य निर्वाह निधी व कामगार राज्य विमा याबाबतच्या चलनाच्या प्रती व इतर तपशील असेल.

८. **एजन्सीची व सूटप्राप्त सुरक्षा रक्षकांची मंडळाकडे नोंदणी.**—अधिसूचनेच्या दिनांकापासून एक महिन्याच्या कालावधीत उक्त मंडळाकडे महाराष्ट्र खाजगी सुरक्षा रक्षक (नोकरीचे नियमन व कल्याण) योजना, २००२ च्या खंड १३(२) व १४(३) मधील तरतुदींनुसार एजन्सीजने स्वत:ची मालक म्हणून आणि त्यांच्याकडील सूटप्राप्त सुरक्षा रक्षकांची विहित नमुन्यातील अर्ज व शुल्क भरून मंडळात नोंदणी करून घ्यावी.

९. **एजन्सीच्या मुख्य मालकांची मंडळाकडे नोंदणी.**—सूटप्राप्त सुरक्षा रक्षकांच्या एजन्सीमार्फत सुरक्षा रक्षक नियुक्त करणाऱ्या मुख्य मालकाने अधिसूचनेच्या दिनांकापासून १५ दिवसांचे आत योजनेच्या खंड १३(१)(अ) अन्वये स्वत:ची मंडळात विहित नमुन्यातील अर्ज व शुल्क भरून नोंदणी करून घ्यावी.

१०. **नोंदणी शुल्क.**—एजन्सीने तसेच सूटप्राप्त सुरक्षा रक्षकाने मंडळाकडे नोंदणी करतेवेळी महाराष्ट्र खाजगी सुरक्षा रक्षक (नोकरीचे नियमन व कल्याण) योजना, २००२ च्या खंड १७ मधील तरतुदींनुसार मंडळाकडे विहित कालावधीत आवश्यक ते नोंदणी शुल्क भरले पाहिजे.

११. **नोंदणीकृत कार्यालय.**—एजन्सीचे नोंदणीकृत कार्यालय असावे आणि त्याबाबतची माहिती एजन्सीने शासन, कामगार आयुक्त व मंडळास द्यावी. नोंदणीकृत कार्यालयाचा पत्ता बदलल्यास अथवा एजन्सीच्या नावात बदल झाल्यास १५ दिवसांचे आत बदलाबाबतच्या आवश्यक त्या कागदोपत्री पुराव्यासह शासनास व मंडळास कळवावे, जेणेकरून शासन सुधारित अधिसूचना जारी करील. सुधारित अधिसूचना जारी झाल्यानंतर मंडळ झालेल्या बदलांची नोंद घेईल.

१२. **सुरक्षा रक्षकांची नियुक्ती.**—उक्त मंडळाकडे ज्या मुख्य मालकांची नोंदणी झाली आहे आणि/किंवा जे उक्त मुख्य मालक मंडळाच्या सुरक्षा रक्षकांच्या सेवेचा लाभ घेत आहेत अशा मुख्य मालकांकडे एजन्सी त्यांचेकडील सुरक्षा रक्षक नेमणार नाही. अशाप्रकारे सुरक्षा रक्षक नेमल्यास, मालक एजन्सीला जबाबदार धरून दिलेली सूट रद्द करण्यात येईल.

१३. **ओळखपत्र व हजेरी कार्ड देणे.**—खाजगी सुरक्षा रक्षक एजन्सी त्यांचेकडील सुरक्षा रक्षकांना व अधिकाऱ्यांना नियुक्त केल्यापासून ३० दिवसांच्या आत ओळखपत्र व हजेरी कार्ड देईल.

१४. **कायदेशीर देणी अदा करणे.**—सुरक्षा रक्षक ज्यावेळी एजन्सीची नोकरी सोडतील, त्यावेळी त्यांना देय असलेली सर्व कायदेशीर देणी (उपदान व इतर कायदेशीर देणी), एजन्सीने अदा करून त्याबाबत झालेल्या व्यवहारांच्या प्रती मंडळाकडे सादर करणे एजन्सीला बंधनकारक राहील.

१५. **एकावेळी एकाच मुख्य मालकाकडे नोकरी.**—सुरक्षा रक्षक एकावेळी एकापेक्षा अधिक मुख्य मालकाकडे काम करणार नाही. याबाबत प्रत्येक सुरक्षा रक्षक एजन्सीने खात्री करून घेतली पाहिजे.

१६. एखाद्या सुरक्षा रक्षकास त्याच्या निवासस्थानापासून ५० कि.मी.पेक्षा अधिक अंतरावर काम करण्यासाठी पाठविल्यास, मालक एजन्सीने त्याच्या एकूण वेतनाच्या २० टक्के रक्कम त्याला भत्ता म्हणून द्यावी.

१७. सुरक्षा रक्षकांच्या फायद्यांसंदर्भात शासनाने किंवा मंडळाने भविष्यकाळात घातलेल्या अटी व शर्तींचे पालन करणे एजन्सीला, तसेच मुख्य मालकाला बंधनकारक राहील.

१८. मालक एजन्सीने त्यांच्या सुरक्षा रक्षकांना सूट प्राप्त झाल्यानंतर, सुरक्षा रक्षकांच्या वेतनाच्या ३ टक्केएवढी लेव्ही दरमहा १० तारखेपर्यंत मंडळास देय राहील. सदर लेव्ही अधिसूचना निर्गमित झाल्याच्या दिनांकापासून १ महिन्याच्या आत मंडळाकडे जमा करणे अनिवार्य राहील.

मंडळाने विनिर्दिष्ट केलेल्या कालमर्यादेत लेव्हीची रक्कम भरण्यात जे नियोक्ता अभिकरण सातत्याने कसूर करील ते नियोक्ता अभिकरण मंडळाने भरणा करण्यास निर्धारित केलेल्या रकमेच्या १० टक्क्यांहून अधिक असणार नाही इतका अधिभार दंडाच्या रूपाने मंडळाकडे भरील.

१९. मालक एजन्सीमार्फत सुरक्षा रक्षक नियुक्त करणाऱ्या मुख्य मालकाने करार संपुष्टात आल्यानंतर वा इतर कोणत्याही कारणामुळे सुरक्षा रक्षकांची सेवा घेणे बंद केले असल्यास, सेवा खंडीत केल्याच्या दिनांकापासून ७ दिवसांच्या आत अशा मुख्य मालकाची व तेथून कमी केलेल्या सुरक्षा रक्षकांची नावे व तपशील मालक एजन्सी मंडळास सादर करील. अशा मुख्य मालकाची अधिसूचनेनुसार घेतलेली मंडळातील

नोंदणी रद्द होईल. तसेच मालक एजन्सीकडून नोकरी सोडून गेलेल्या सुरक्षा रक्षकांची नावे व तपशील मालक एजन्सी मंडळास व नजीकच्या पोलीस ठाण्यास ७ दिवसांच्या आत सादर करील. अशाप्रकारे नोकरी सोडून गेलेल्या सुरक्षा रक्षकांची नोंदणी मंडळ रद्द करील.

२०. मुख्य मालकाकडून सुरक्षा रक्षकांच्या कामाच्या मोबदल्यापोटी एजन्सीकडे जमा होणाऱ्या रक्कमेपैकी, मंडळाने सुरक्षा रक्षकांच्या वेतनापोटी निश्चित केलेली रक्कम तसेच सर्व वैधानिक रकमा जसे भविष्यनिर्वाह निधी, कामगार राज्य विमा योजना, बोनस प्रदान, रजा वेतन, राष्ट्रीय सुट्ट्यांचे वेतन यासाठी विनियमित केले जाईल निदान इतकी रक्कम किंवा मुख्य मालकाने एजन्सीला अदा केलेल्या रकमेच्या ५६ टक्के इतकी रक्कम किंवा यापैकी जी अधिक असेल ती सुरक्षा रक्षक एजन्सीनी सुरक्षा रक्षकांना अदा करणे आवश्यक आहे.

२१. सुरक्षा रक्षकांना साप्ताहिक सुट्टी उपभोगण्याकरिता कार्यमुक्त करणाऱ्या सुरक्षा रक्षकांचे वेतन मुख्य मालक एजन्सीला अदा करील. हे वेतन यथा प्रमाण पद्धतीवर आधारित असेल व ही रक्कम मूळ वेतनाच्या १० टक्के अथवा जी अधिक असेल इतकी असेल.

२२. सुरक्षा रक्षक मंडळामध्ये जमा करावयाची लेव्ही, सुरक्षा रक्षकांच्या प्रशिक्षणासाठीचा खर्च, देखरेखीवरील खर्च, तसेच एजन्सीचा प्रशासकीय खर्च व नफा या सर्व गोष्टींचा खर्च हा मुख्य मालकाने एजन्सीकडे जमा केलेल्या एकूण रक्कमेच्या ३० टक्के रक्कमेपेक्षा जास्त नसावा.

२३.उपरोक्त अनिवार्य लादलेल्या खर्चावर नियमानुसार सेवाकर आकारला जाईल व सेवाकर त्या त्या वेळी अंमलात असलेल्या दरानुसार असेल.

२४. या व्यतिरिक्त सुरक्षा रक्षकांना गणवेश दिला जाईल, व त्यासाठी ४ टक्के रक्कम दरवर्षी राखीव ठेवण्यात येईल.

२५. सुरक्षा रक्षकांना त्यांचे वेतन पुढील महिन्याच्या सात तारखेपर्यंत देण्यात यावे.

वरीलपैकी कोणत्याही शर्तींचे मालक एजन्सीने उल्लंघन केल्यास त्यांना देण्यात आलेली सूट रद्द करण्यात येईल किंवा काढून टाकण्यात येईल.

अटी, शर्ती व नियमांचे तंतोतंत पालन होण्याबाबतची जबाबदारी मुख्य मालकाची असेल. अधिसूचनेतील तरतुदीनुसार सुरक्षा रक्षकांना एजन्सीने फायदे दिले नसल्यास सूट प्राप्त सुरक्षा रक्षकांना सदर फायदे देण्याची जबाबदारी मुख्य मालकाची असेल.

नमुना " अ "

सुरक्षा रक्षक एजन्सीने सादर करावयाचे त्रैमासिक विवरणपत्र

महिन्यांचे त्रेमासिक विवरणपत्र : दिनांक :

जानेवारी-मार्च,

एप्रिल-जून,

जुलै-सप्टेंबर,

ऑक्टोबर-डिसेंबर.

एजन्सीचे नाव व पत्ता :

अधिसूचना क्रमांक व दिनांक :

एजन्सीचा मंडळातील नोंदणी क्रमांक :

अनु-क्रमांक	मुख्य मालकाचे नाव व पत्ता	सुरक्षा रक्षकांच्या नियुक्तीचे ठिकाण	सुरक्षा रक्षकांचे नाव व वर्ग
(१)	(२)	(३)	(४)

प्राधिकृत स्वाक्षरीकर्ता,

(नाव व हुद्दा).

नमुना " ब "

सुरक्षा रक्षक एजन्सीने सादर करावयाचे सहामाही विवरणपत्र

विवरणपत्राचा कालावधी : जानेवारी ते जून/जुलै ते डिसेंबर दिनांक :

एजन्सीचे नाव व पत्ता :

अधिसूचना क्रमांक व दिनांक :

एजन्सीचा मंडळातील नोंदणी क्रमांक :

अनुक्रमांक	मुख्य मालकाचे नाव व पत्ता	नियुक्त केलेल्या सुरक्षा रक्षकांची वर्गनिहाय एकूण संख्या	सुरक्षा रक्षक एजन्सी सोडून गेलेल्या सुरक्षा रक्षकांची वर्गनिहाय संख्या	नव्याने भरती झालेल्या सुरक्षा रक्षकांची वर्गनिहाय संख्या
(१)	(२)	(३)	(४)	(५)

प्राधिकृत स्वाक्षरीकर्ता,

(नाव व हुद्दा).

नमुना " क "

एजन्सीने वेतन प्रदानाबाबत सुरक्षा रक्षक मंडळास सादर करावयाचे विवरणपत्र

वेतन प्रदानाचा महिना :

मुख्य मालकाचे नाव व पत्ता :

बँकेचे नाव (शाखा व पत्ता) :

अनु-क्रमांक	सुरक्षा रक्षकाचे नाव	धनादेश क्रमांक व दिनांक	रक्कम
(१)	(२)	(३)	(४)

प्राधिकृत स्वाक्षरीकर्ता,

(नाव व हुद्दा).

नमुना " ड "

सुरक्षा रक्षक एजन्सीने सादर करावयाचे वार्षिक विवरणपत्र

वार्षिक विवरणपत्राचे आर्थिक वर्ष : दिनांक:

एजन्सीचे नाव व पत्ता :

अधिसूचना क्रमांक व दिनांक :

एजन्सीचा मंडळातील नोंदणी क्रमांक :

अनु-क्रमांक	महिने (एप्रिल ते मार्च)	नियुक्त केलेल्या सुरक्षा रक्षकांची संख्या	सुरक्षा रक्षकांना अदा केलेले एकूण वेतन	भविष्यनिर्वाह निधी ज्यावर कपात केली आहे असे वेतन	मंडळाकडे जमा केलेली ३ टक्के लेव्ही रक्कम
(१)	(२)	(३)	(४)	(५)	(६)

प्राधिकृत स्वाक्षरीकर्ता,

(नाव व हुद्दा).

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

सु. कि. गावडे,
शासनाचे उप सचिव.

In pursuance of clause (3) of Article 348 of the Constitution of India, the following translation in English of the Government Notification, Industries, Energy and Labour Department, No. SGA. 2013/CR-153/LAB-5, dated the 7th May 2013 is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

S. K. GAWADE,
Deputy Secretary to Government.

INDUSTRIES, ENERGY AND LABOUR DEPARTMENT

Mantralaya, Mumbai 400 032, dated the 7th April 2013

NOTIFICATION

MAHARASHTRA PRIVATE SECURITY GUARDS (REGULATION OF EMPLOYMENT AND WELFARE) ACT, 1981.

No. SGA.2013/C.R. 153/LAB-5.— Whereas one Security Gaurd whose name is mentioned in Column (2) of Schedule I appended hereto (hereinafter referred to as "the said Security Guards"), employed with one Principal Employer mentioned in Column (4) of the said Schedule I, employed by M/s. United 4 Facility and Security Services (Raigad), 30, A-Wing, 8, Sankheshwar Nagar Society, Manpada Road, Near Shani Mandir, Dombivali (E.), District Thane, and owner Shri Tushar Madhukar Chitre have applied for grant of exemption, under section 23 of the Maharashtra Private Security Guards (Regulation of Employment and Welfare) Act, 1981 (Mah. LVIII of 1981) from the operation of all provisions of the said Act and the Maharashtra Private Security Guards (Regulation of Employment and Welfare) Scheme, 2002 (hereinafter referred to as "the said Scheme") ;

And whereas the Government of Maharashtra, after consultation with the Advisory Committee and after verification of the benefits enjoyed by the said Security Guards is of the opinion that they are in enjoyment of benefits, which are on the whole not less favourable to them than the benefits provided by and under the said Act and the said Scheme ;

Now, therefore, in exercise of powers conferred by section 23 of the Maharashtra Private Security Guards (Regulation of Employment and Welfare) Act, 1981, the Government of Maharashtra hereby exempts the said Security Guard from operations of all provisions of the said Act and the said Scheme, for a period of three years from the date of publication this notification in *Official Gazette,* subject to conditions specified in Schedule II appended hereto :—

Schedule I

Sr. No. (1)	Name of Security Guards (2)	Class (3)	Name and address of Principal of Employer (4)
1	Nandkumar Nagnath Kulkarni	Security Guard	M/s. ABC Computer, Near Kohinoor, Institute, Opp. Society Tempo Stand, Panvel, Dist. Raigad.

Note.— Government of Maharashtra does not take guarantee of any sort as regards to Security Guards. Principal Employers can employ these Private Security Guards at their own risk.

Schedule II

Conditions to be followed by the Employer Agency and Principal Employer

(1) *Police Verification.*—Police Verification Certificates regarding antecedent of the guards as well as the employer of such guard is necessary. Licence under the Private Security Agency (Regulation) Act, 2005 is also compulsory on the part of Employer Agency.

(2) *Training*.—Adequate training shall be imparted to the Security Guards before they are deployed.

(3) *Educational Qualifications, Physical Fitness and other requirements.*—Educational, physical and other requirements for the Security Guards shall be as follows :—

Minimum Education Qualification **:** 8th Standard Passed.

Physical Requirements (A) (1) Height — 162 cm.

(2) Weight — 50 kg.

(3) Chest — 79 cm. (Without Expansion) and 84 cm. (On Expansion)

(4) Sight — If wearing glasses, the glass should not have excess number.

(B) In case of tribal candidates, there will relaxation of 5 c.m. in height and 2 c.m. in chest.

(4) *Benefits.*—Benefits for Security Guards shall be as follows :—

(*a*) *Uniform :* Two pairs in a year.

(*b*) *Shoes :* One pair of leather shoes in a year.

(*c*) *Rainy and Winter Uniform* **:** (Once in two years) Raincoat, Trousers and Cap, Woolen Coat and Pant.

(5) *Wages and other statutory Benefits.*—Exempted Security Guard shall open his account in a Nationalised Bank and agency shall give crossed cheque to each Security Guard equivalent to his earned wages by 7th of every month. Statement showing details of wages paid in Form "C" shall be submitted to the Security Guards Board by 10th of every month. The Agency shall give the following benefits to the Security Guards.

Ex-Gratia	: 10% of wages
Gratuity	: 4% of wages
Leave with wages	: 6% of wages
Paid Holidays	: 1% of wages.

Contribution to be deposited with the Competent Authorities in respect of various statues such as Provident Fund, E.S.I. etc. applicable to the Principal Employer, shall be deposited by the Agency with such authority and challan thereof be submitted to the Board for information. The Security Guards Agency should give regular receipt to the Guard and submit a consolidated report of the abovesaid transactions to the Government, the Commissioner of Labour and the Security Guards Board every six months. In case of default, the Agency shall be held responsible and shall be liable for cancellation of exemption.

(6) *Overtime Allowance.*—Overtime Allowance should not be less than double the rates of wages existing at that time on the anology of the Security Guards deployed by the Security Guards Board. The ultimate responsibility in this respect lies on the concerned Principal Employer.

It is the responsibility of the Principal Employer to pay wages and provide benifits to the Security Guards. The Principal Employer, in turn, shall ensure that the guards deployed at his establishment are getting wages and benefits not less favourable than those available under the Scheme.

(7) *Filling of Returns.*—(*a*) *Quarterly Return.*—Agency to submit quarterly return to the Government, the Commissioner of Labour and Board in the first week of first month of the quarter (January, April, July and October) in respect of employment of Security Guards in Form "A" appended hereto.

(*b*) *Half Yearly Return.*—(1) Half Yearly Return in Form "B" appended hereto shall be submitted by the Agency in respect of Guards engaged, who have left and newly recruited to the Government, the Commissioner of Labour and Board.

(2) The Security Guard Agency should make regular contribution of employees' Provident Fund and ESIC of the concerned Security Guards and give regular Receipts to the guard and submit a consolidated report of the above said transaction to the Government, the Commissioner of Labour and the Security Guards Board every six months.

(3) The Security Guard Agency should submit proof of the previous contributions of employees' Provident Fund and ESIC within a period of three months from the date of publication of this Notification to the Government, Otherwise, the exemption given to the concerned Security Guards will be cancelled.

(*c*) *Annual Return*.—Every Agency shall submit at Annual Return of Income Tax, P.F., E.S.I. duly certified by Charted Accountant, in Form-D on or before 30th of June of every year to the Government and the Board, alongwith copies of challans and other details.

(8) *Enrollment of the Agency with the Board.*—The Agency should get itself enroll with the Board according to the provisions of Clause 13(2) of the Maharashtra Private Security Guards (Regulation of Employment and Welfare) Scheme, 2002, as an employer agency and shall register exempted Security Guards under Clause 14(3) of the Scheme applying in the Form devised by the Board by paying prescribed registration fee within a period of one month from the date of issuance of this Notification.

(9) *Registration of Principal Employer of Employer Agency.*—The Principal Employer who is engaging exempted Security Guards of the agency shall get register with the Board as provided under Clause 13(1) (a) of the Scheme within 15 days from date of exempted Notification, applying in the Form devised by the Board by paying prescribed registration fee.

(10) *Enrollment fees.*—While getting itself registered with the Board, the Agency should pay Registration Fee to the Board as per clause 17 of Maharashtra Private Security Guards (Regulation of Employment and Welfare), Scheme, 2002 within stipulated time.

(11) *Registered Office.*—Every Agency shall have registered office which shall be notified to the Government, Commissioner of Labour and the Board. In case of change in address or change in name, the same shall be informed to the Government and to the Board alongwith documentory proof thereof within a period of 15 days from such change, so as to Government can issue Notification in respect thereof. Board shall take note of such changes after issuance of the Notification.

(12) *Allotment of Guards.*—The Agency shall not allot their Security Guards to such Principal Employers who are registered with the Board, If agency deployes its Security Guards to such Principal Rmployer in that case exemption will be cancelled.

(13) *Issue of Identity Cards/Attendance Card.*—Every Agency shall issue identity card, attendance card to Security Guards and Officers engaged and deployed by them.

(14) *Payment of Legal Dues.*—Whenever a Security Guard leaves his job, it is obligatory on the part of the agency to pay all the legal dues to him and copy of the records thereof shall be submitted to the Board including gratuity and other legal dues.

(15) *Employment with one principal Employer at a time.*—Every agency shall also ensure that its Security Guards shall not work for more than one Principal Employer at a time.

(16) If any Security Guard is asked to work beyond the radius of 50 kms. from his place of residence, the Employer Agency shall pay an allowance @ 20% of total emoluments of such Security Guard.

(17) The Agency and Principal Employer is liable to abide with any other terms and conditions, which may be imposed in favour of Security Guard by the Government of Maharashtra or Board in future.

(18) The exempted Security Guard Agency should pay levy @ 3% to the Board per month on wages paid to the Security Guards on or before 10th of every month. The agency shoud start paying such levy within the period of 1 month from the date of exemption Notification.

The employer agency who persistantly makes default in remitting the amount of 3% levy within the time limit specified as above, shall further pay by way of penalty, surcharge @ 10% of the amount to be remitted.

(19) In case, the Principal Employer discontinues the exempted Security Guards due to expiry of agreement or due to any reason, in that case, the agency shall submit the details of such Principal Employers and the Security Guards to the Board within 7 days from such discontinuation. In such case the registration of the said Principal Employer shall stand cancelled. The agency shall also submit the details of Security Guards who have left the services due to any reason alongwith details of the Principal Employers to the Board and concerned Police Station within 7 (Seven) days. On receipt of the above details Board will cancel the registration of such exempted guards.

(20) From the amount of the payment made by the Principal Employer to the Security Agency, the Security Guards will be paid at least an amount which has been fixed by the Board towards the wages and all the statutory benefits towards Provident Fund, E.S.I.C., Payment of Bonus, leave with wages, leave on national holidays etc. or the same shall be the amount equivalent to 56% of the gross payment made by the Principal Employer to the Security Agency, whichever is higher.

(21) The Principal Employer will pay to the agency on a prorata basis for the reliever who would be relieving the Security Guard in case of his weekly off or the amount paid to the reliever shall be 10% of the basic wages, or whichever is higher.

(22) The amount of levy to be deposited to the Security Guards Board, the cost of training of the Security Guards, the cost of supervision, administration of profits of the agency, the total cost of which will not exceed more than 30% of the total amount paid by the Principal Employer to the agency.

(23) The Service Tax will be levied on the total mandatory cost mentioned herein above at the rate which is in force at any given point of time.

(24) In addition to this uniform will be provided to the Security Guards. For this purpose an amount of 4% per annum should be delineate.

(25) Wages of the Security Guards will be paid not later than 7th of every next month.

Breach of any above conditions by the employer agency shall make employer agency liable for cancellation or revocation of the exemption granted under this notification.

It shall be the responsibility of the Principal Employer to see that the terms, conditions and rules are followed scrupulously and in case the agency fails to grant the benefits to the exempted Security Guard as per the conditions of Notification the Principal Employer will be held responsible to pay the same to the exempted Security Guards.

FORM ' A '

Quarterly Return to be filed by the Agency

Quarterly Return for the months Date :

(January-March

April-June

July-September

October-December)

Name and Address of the Agency :

Notification No. and Date :

Registration No. of Agency with the Board :

Serial Number	Number and Address of the Principal Employer	Location of Security Guards deployed	Name and Category of the Guards
(1)	(2)	(3)	(4)

Authorised Signatory,

(Name and Designation).

FORM ' B '

Half Yearly Return to be submitted by Security Guards Agency

Period of Return : January to June/ July to December Date :

Name and Address of the Agency :

Notification No. and Date :

Registration No. of Agency with the Board :

Serial No.	Name and Address of Principal Employer	Total No. of Security Guards engaged Categorywise	No. of Security Guards who have left the Security Guards Agency Categorywise	Number of Security Guards Newly Recruited Categorywise
(1)	(2)	(3)	(4)	(5)

Authorised Signatory,

(Name and Designation).

FORM ' C '

Statement to be submitted to the Security Guards Board regarding disbursement of wages.

Disbursement of wages for the month of :

Name and Address of the Principal Employer :

Name of the Bank (Branch and Address) :

Serial No.	Name of the Security Guard	No. and Date of the Cheque	Amount
(1)	(2)	(3)	(4)

Authorised Signatory,

(Name and Designation).

FORM ' D '

Anual Return to be submitted by Security Guards Agency

Period of Annual Return : Date :

Name and Address of the Agency :

Notification No. and Date :

Registration No. of Agency with the Board :

Serial No.	Months (April to March)	Total No. of of Security Guards engaged	Total Wages Paid to the Security Guard	The Wages on which the P.F. contribution is deducted	3% Levy Submitted to the Board
(1)	(2)	(3)	(4)	(5)	(6)

Authorised Signatory,

(Name and Designation).

By order and in the name of the Governor of Maharashtra,

S. K. GAWADE,
Deputy Secretary to Government.

५०

शुक्रवार, मे १७, २०१३/वैशाख २७, शके १९३५

उद्योग, ऊर्जा व कामगार विभाग

मादाम कामा रोड, हुतात्मा राजगुरु चौक, मंत्रालय,
मुंबई ४०० ०३२, दिनांक १७ मे २०१३

अधिसूचना

महाराष्ट्र दुकाने व आस्थापना अधिनियम, १९४८.

क्रमांक बीएसई. ०९/२०११/प्र.क्र. २४१/कामगार-१०.—महाराष्ट्र दुकाने व आस्थापना अधिनियम, १९४८ (सन १९४८ चा महा. एकोणऐंशी) (यात यापुढे ज्याचा " उक्त अधिनियम " असा उल्लेख करण्यात आलेला आहे.) याच्या कलम ४ च्या परंतुकाद्वारे प्रदान करण्यात आलेल्या अधिकाराचा वापर करून, महाराष्ट्र शासन याद्वारे, उक्त अधिनियमाच्या अनुसूची दोनमध्ये खालीलप्रमाणे सुधारणा करीत आहे :—

उक्त अधिनियमाच्या अनुसूची दोन मधील क्रमांक " ६१३ " नंतर खालील नोंदीचा समावेश करण्यात येईल.—

" ६१४	मे. वामन हरी पेठे ज्वेलर्स, पेठे बिल्डिंग, उत्तर बाजू, जगन्नाथ शंकरशेठ रोड, ठाकूरद्वार, गिरगाव, मुंबई ४०० ००४ यांची खालील दुकाने :— (१) पेठे बिल्डिंग, रानडे रोड, दादर, मुंबई ४०० ०२८. (२) १६०, विजयाश्री बिल्डिंग, निराला बाजार रोड, समर्थ नगर, औरंगाबाद ४३१ ००१. (३) पेठे बिल्डिंग, जे. एस. एस. रोड, गिरगाव, मुंबई ४०० ००४. (४) बिल्डिंग नं. ५, मिथा नगर, श्री. चिंतामणी को-ऑप. हौ. सोसायटी, विद्यानिकेतन स्कूलजवळ, एम. जी. रोड, गोरेगाव (प.), मुंबई ४०० ०६२. (५) ४/५/६, सनग्रेस अपार्टमेंट, एफ १, सेक्टर १०, वाशी, नवी मुंबई ४०० ७०३.	उक्त अधिनियमाच्या कलम १८ मधून खालील शर्तींच्या अधीन राहून :— (१) प्रत्येक कर्मचाऱ्यास त्याच्या वेतनातून कुठल्याही प्रकाराची कपात न करता आठवड्यातून एक दिवस भरपगारी सुट्टी देण्यात यावी व सुट्टीसंबंधीचे प्रत्येक महिन्याचे वेळापत्रक सूचना फलकावर आगाऊ लावण्यात यावे. (२) कर्मचाऱ्यास दररोज ९ तास किंवा आठवड्यामध्ये ४८ तासांपेक्षा जास्त काम करणे आवश्यक असणार नाही व दररोजच्या कामाची व्याप्ती १२ तासांपेक्षा जास्त असणार नाही. (३) प्रत्येक कर्मचाऱ्यास सलग पाच तास काम केल्यावर एक तासाची विश्रांती देण्यात यावी. (४) कोणत्याही कर्मचाऱ्यास त्याच्या अतिकालिक कामाबद्दल कलम ६३ मध्ये विहित केलेल्या दराने अधिक वेतन देण्यात यावे. (५) आस्थापना रात्रौ ८-३० नंतर उघडी राहणार नाही. (६) महिला कर्मचाऱ्यांसाठी कामाच्या ठिकाणी स्वतंत्र लॉकर व विश्रांतीगृह यांची व्यवस्था करण्यात यावी.

(६) अथर्व एम्पायर, दुकान नं. बी-२, अपर ग्राऊंड फ्लोअर, सी.एस.
नं. २६३, ए-१-४, ससाणे ग्राऊंडसमोर, कोल्हापूर ४१६ ००३.

(७) लिला विस्टा, अपर ग्राऊंड फ्लोअर वेस्ट हाय कोर्ट रोड, बजाज नगर, नागपूर ४४० ०१०.

(८) जीवन मंदिर सोसायटी, ग्राऊंड फ्लोअर, फॅक्टरी लेन, गोखले रोड, हायस्कूलसमोर, अंबा माता मंदिर बोरीवली (प.), मुंबई ४०० ०९२.

(९) ग्राऊंड फ्लोअर, साई आनंद आर्केड, स्टेला अपार्टमेंट, सेंट
ऑगस्टीन हायस्कूलसमोर,
वसई रोड (प.), ४०१ २०२.

(१०) कॉसमॉस कोर्ट, एस. व्ही. रोड, आयओसी पेट्रोल पंपसमोर,
विर्लेपार्ले (प.), मुंबई ४०० ०५६.

(११) दुकान नं. १, २ आणि ३, तळमजला, ६१-ए, शांताराम निवास गोखले रोड, मुंबई ४०० ००२८.

(१२) दुकान नं. १, २, ३, ग्राऊंड फ्लोअर, उर्मिला कॉम्प्लेक्स को- ऑप. प्रिमायसेस सोसायटी, १३२, स्टेशन ॲव्हेन्यू रोड, चेंबूर, मुंबई ४०० ०७१.

(१३) दुकान नं. २९, ४३/ए, इंद्रपुरी बिल्डिंग, लक्ष्मीबाई केळकर मार्ग,
सायन सर्कल (प.), मुंबई ४०० ०२२.

(१४) दुकान नं. ४, ५, ११, १२, ग्राऊंड फ्लोअर, सी ब्लॉक, श्रीजी बिल्डिंग कात्रप चौक, बदलापूर (पूर्व).

(७) सदर सूट ही **शासन राजपत्रात** अधिसूचना प्रसिद्ध झाल्याच्या दिनांकापासून पाच वर्षांच्या कालावधीकरिता लागू राहील.

(८) सदर सूट ही मुंबई दुकाने व आस्थापना अधिनियम, १९४८ पुरतीच मर्यादित आहे.

(९) वरील अटीं व शर्तीं व्यतिरिक्त अधिनियमातील इतर तरतुदी आस्थापनेस यथास्थिती लागू राहतील.

(१०) वरीलपैकी कोणत्याही अटींचा व शर्तींचा भंग झाल्यास सूट आपोआप रद्द होईल.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

ना. द. थोरवे,
कार्यासन अधिकारी.

In pursuance of Clause (3) of Article 348 of the Constitution of India, the following translation in English of the Government Notification, Industries, Energy and Labour Department, No. BSE. 09/2011/C.R. 241/LAB-10, dated the 17th May 2013 is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

BALASAHEB KOLASE,
Joint Secretary to Government.

INDUSTRIES, ENERGY AND LABOUR DEPARTMENT

Madam Cama Road, Hutatma Rajguru Chowk, Mantralaya,
Mumbai 400 032, dated the 17th May 2013.

NOTIFICATION

MAHARASHTRA SHOPS AND ESTABLISHMENT ACT, 1948.

No. BSE. 09/2011/C.R. 241/Lab-10.—In exercise of the powers conferred by the proviso to Section 4 of the Maharashtra Shops and Establishment Act, 1948 (Mah. LXXIX of 1948) (hereinafter referred to as "the said Act") the Government of Maharashtra hereby amends Schedule II of the said Act as follows, namely :—

In Schedule II of the said Act, after entry " 613 " the following Entry shall be added namely :—

" 614	The following shops of M/s. Waman Hari Pethe Jewellers, Pethe Bldg. North side, Jagannath Shankar Sheth Road, Thakurdwar, Girgaon, Mumbai 400 004. (1) Pethe Building, Ranade Road, Dadar, Mumbai 400 028. (2) 160, Vijayashri Building, Nirala Bazar Road, Samarth Nagar, Aurangabad 431 001. (3) Pethe Building, J. S. S. Road, Girgoan, Mumbai 400 004. (4) Building No. 5, Mitha Nagar, Shri Chintamani Co-op.Housing Society, Close to Vidyaniketan School, M. G. Road, Goregaon (W.), Mumbai 400 062. (5) 4/5/6, Sungrace Apt., F-1, Sector-10, Vashi, Navi Mumbai 400 703.	Section 18 subject to the following conditions :— (1) Every employee shall be given one day holiday in a week without making any deductions from his/her wages on account thereof and list of the time table of such holidays for a month shall be placed on the notice board in advance. (2) No employee shall be required to work for more than 9 hours in a day or 48 hours in a week. The spread over of an employee shall not exceed 12 hours in a day. (3) Every employee shall be given a rest period of one hour after 5 hours of continuous work. (4) The employees shall be entitled to overtime wages in accordance with Section 63 of the said Act. (5) The establishment shall not remain open later than 8-30 p. m. (6) Female employees shall be provided separate lockers and rest rooms at the work place. (7) This exemption shall remain in operation for the period of Five years from the date of Notification published in *Government Gazette*. (8) This exemption is related only to Bombay Shops and Establishment Act, 1948. (9) Inspite of these terms and conditions, all the provisions of this Act shall applicable to the establishment duly.

(6) Atharv Empire, Shop No. B-2, Upper Ground Floor, C. S. No. 263, A-1-4, Opp. Sasane Ground, Kolhapur 416 003.

(7) Leela Vista, Upper Ground Floor, West High Court Road, Bajaj Nagar, Nagpur 440 010.

(8) Jeevan Mandir Society, Ground Floor, Factory Lane, Opp. Gokhale Road, High School, Near Amba Mata Mandir, Borivali (W.), Mumbai 400 092.

(9) Ground Floor, Sai Anand Arcade, Stella Apt., Opp. St. Augustine High School, Vasai Road (W.), 401 202.

(10) Cosmos Court, S. V. Road, Opp. IOC Petrol Pump, Vile Parle (West), Mumbai 400 056.

(11) Shop No. 1, 2 and 3 Ground Floor, 61-A, Shantaram Niwas, Gokhale Road, Mumbai 400 028.

(12) Shop No. 1,2,3, Ground Floor, Urmila Complex Co-op. Premises Society, 132, Station, Avenue Road, Chembur, Mumbai 400 071.

(13) Shop No. 29, 43/A, Indrapuri Building, Laxmibai Kelkar Marg, Sion Circle (West), Mumbai 400 022.

(14) Shop No. 4, 5, 11, 12, Ground Floor, C-Block, Shreeje Bldg. Katrap Chowk, Badlapur (East).

(10) In case of violation of any of the above terms and conditions, the exemption shall stand cancelled automatically."

By order and in the name of the Governor of Maharashtra,

N. D. THORVE,
Section Officer.

५१

बुधवार, मे २२, २०१३/ज्येष्ठ १, शके १९३५

उद्योग, ऊर्जा व कामगार विभाग

हुतात्मा राजगुरू चौक, मादाम कामा रोड, मंत्रालय, मुंबई ४०० ०३२, दिनांक १७ मे २०१३.

अधिसूचना

कारखाने अधिनियम, १९४८.

क्रमांक एफएसी-२०१३/प्र.क्र. ०५/काम-४.—कारखाने अधिनियम, १९४८ च्या कलम ६६ (१) (ब) मधील परंतुकान्वये प्रदान करण्यात आलेल्या शक्तींचा वापर करून महाराष्ट्र शासन या अधिसूचनेद्वारे मे. लार्सन ॲण्ड टुब्रो लि., प्लॉट नं. ए-९, एम.आय.डी.सी., अहमदनगर ४१४ १११ या कारखान्यास कारखाने अधिनियम, १९४८ मधील महिला कर्मचाऱ्यांच्या कामाच्या वेळेसंबंधी असणाऱ्या तरतुदीमधून सूट देत असून याबाबत संमती असणाऱ्या महिला कर्मचाऱ्यांना सकाळी ५-०० ते रात्री १०-०० वाजेपर्यंतच्या कालावधीकरिता काम करण्यास सदर अधिसूचना निर्गमित झाल्याच्या दिनांकापासून पुढील १ वर्षाच्या कालावधीकरिता परवानगी देत आहे. सदर सूट ही खालील अटींच्या अधिन राहून देण्यात येत आहे.

अटी

(१) कोणत्याही महिला कामगारास रात्री १०-०० वाजल्यापासून सकाळी ५-०० वाजेपर्यंत कामावर ठेवू नये.

(२) व्यवस्थापनाने महिला कामगारांना, कामगारांच्या निवासस्थानापासून, कारखान्यापर्यंत व पुन्हा परत त्यांच्या निवासस्थानापर्यंत त्यांना ने-आण करण्यासाठी बस किंवा मोटारगाड्यातून विनामूल्य सोय केली पाहिजे. तसेच त्यांना कामावर येताना, जाताना व कामाच्या ठिकाणी सुरक्षिततेची पुरेशी व्यवस्था केली पाहिजे.

(३) स्त्री कर्मचाऱ्याच्या कामाच्या ठिकाणी व्यवस्थापनाने निवासस्थान ते आस्थापना व आस्थापना ते निवासस्थानाच्या वाहतुकीमध्ये स्त्री सुरक्षा रक्षकाची नियुक्ती करण्यात यावी. सकाळी ५-०० ते दुपारी २-०० व दुपारी २-०० ते रात्री १०-०० या पाळीत काम करणाऱ्या स्त्री कर्मचाऱ्यांच्या १ ते १० संख्येला १ महिला सुरक्षा रक्षक नेमण्यात यावी. त्याच पटीत पुढे सुरक्षा रक्षक नेमण्यात यावेत. स्त्री सुरक्षा रक्षकांना स्वसंरक्षणार्थ व त्यांच्या देखरेखीखाली असलेल्या स्त्री कर्मचाऱ्यांच्या संरक्षणाकरिता ज्युडो, कराटे इत्यादींचे प्रशिक्षण देण्यात यावे.

(४) स्त्री कर्मचाऱ्यांकरिता स्वतंत्र लॉकर्सची व्यवस्था करण्यात यावी व स्त्री कर्मचाऱ्यांच्या विश्रांतीकरिता विश्रांती कक्ष निर्माण करण्यात यावा. या पाळीत काम करणाऱ्या स्त्री कर्मचाऱ्यांना किमान पाच स्त्री कर्मचाऱ्यांच्या गटागटाने काम करण्यास देण्यात यावे.

(५) प्रत्येक स्त्री कर्मचाऱ्यास प्रत्येक सप्ताहामध्ये आलटून पालटून साप्ताहिक सुट्टी कोणत्याही प्रकारची वेतनातून कपात न करता देण्यात यावी. कर्मचाऱ्यांना आठवड्यात गटागटाने सुट्टी देण्यात यावी.

(६) साप्ताहिक सुट्टीचे वेळापत्रक प्रत्येक महिन्याच्या शेवटच्या दिवशी कर्मचाऱ्याच्या माहितीसाठी सूचनाफलकावर प्रदर्शित करावे. कोणत्याही कर्मचाऱ्यास साप्ताहिक रजेपासून वंचित केले जाणार नाही. त्यांना आठवड्याची भरपगारी रजा दिली जाईल.

(७) कर्मचाऱ्याच्या जादा कामाचा भत्ता, कामाचा विस्तार कालावधी व इतर अनुषंगिक बाबींबाबत कारखाने अधिनियम व महाराष्ट्र कारखाने नियम यामधील तरतुदींचे पालन करणे आवश्यक आहे.

(८) महिला कामगारांचे ६ वर्षांपेक्षा लहान मुलांसाठी पाळणाघराची सुविधा उपलब्ध केली पाहिजे.

(९) पाळणाघराच्या व्यवस्थेचा फायदा घेण्याकरिता जे कामगार आपली लहान मुले कारखान्यात आणू इच्छितात त्या मुलांनाही उपरोक्त अट क्र. ८ मधील सुविधा कारखाना व्यवस्थापनाने उपलब्ध करून दिली पाहिजे.

(१०) सदर सूट ही या प्रस्तावासोबत संमतीपत्र देणाऱ्या १०६ महिलांकरिताच लागू राहील. या सूटबाबत संमती देणाऱ्या महिलांची किंवा युनियनची तक्रार असल्यास त्यांच्याबाबतीत सदर सवलत लागू राहणार नाही.

(११) व्यवस्थापनाने सदर सूट मिळालेल्या अधिसूचनेची प्रत ठळकपणे, सर्व महिला कर्मचाऱ्यांच्या माहितीकरिता सूचना फलकावर प्रदर्शित केली पाहिजे.

(१२) महिला कर्मचाऱ्यांच्या वेळेच्या संबंधात मा. उच्च न्यायालय मद्रास यांनी रिट पिटीशन क्र. ४३६०/९९ या केसमध्ये दिलेल्या मार्गदर्शक तत्त्वांचे कारखाना व्यवस्थापनाने पालन केले पाहिजे.

(१३) वरील आस्थापनेस दिलेली सूट ही सदर अधिसूचना **राजपत्रात** प्रसिद्ध झाल्याच्या दिनांकापासून पुढे एक वर्षाच्या कालावधीकरिता अंमलात येईल.

(१४) वरील क्रमांक १ ते १२ च्या अटींचे व्यवस्थापनाकडून उल्लंघन झाल्यास वरीलप्रमाणे दिलेली सूट/सवलत आपोआप रद्द समजली जाईल.

(१५) उपरोक्त अटींचे पालन होत असल्याबाबतची तपासणी करून अहवाल संचालक, औद्योगिक सुरक्षा व आरोग्य संचालनालय, यांनी शासनास सादर करावा.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

रविकुमार पाटणकर,
कार्यासन अधिकारी.

५२

गुरुवार, मे २३, २०१३/ज्येष्ठ २, शके १९३५

उद्योग, ऊर्जा व कामगार विभाग

मंत्रालय, मुंबई ४०० ०३२, दिनांक २३ मे २०१३.

अधिसूचना

क्रमांक आयसीई-०५१३/प्र.क्र. ८३/काम-६.—" महाराष्ट्र चौकशी न्यायालये, कामगार न्यायालये व औद्योगिक न्यायालये यांचे न्यायिक अधिकारी (सेवा प्रवेश, नियुक्ती आणि शिस्तभंगविषयक कार्यवाही) नियम, १९९९ " च्या नियम ५ नुसार प्रदान करण्यात आलेल्या अधिकारांचा वापर करून मा. उच्च न्यायालय, मुंबई यांनी त्यांचे पत्र, क्र. अे. १२२६/८३/२८०२/२०१३, दिनांक २९ एप्रिल २०१३ अन्वये केलेल्या शिफारशीनुसार श्री. भागवत दशरथ गायकवाड यांची सदस्य, औद्योगिक न्यायालय, धुळे या पदावर व श्री. शरदकुमार सदाशिव पाटील यांची सदस्य, औद्योगिक न्यायालय, नागपूर या पदावर नियुक्ती करण्यात येत आहे.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

दिपा ठाकूर,
कक्ष अधिकारी.

INDUSTRIES, ENERGY AND LABOUR DEPARTMENT

Mantralaya, Mumbai 400 032, dated the 23rd May 2013.

NOTIFICATION

No. ICE-0513/C.R. 83/Lab-6.—In exercise of the powers conferred by Rule 5 of Maharashtra Judicial Officers of the Courts of Enquiry, Labour Court, Industrial Courts (Recruitment, Appointment and Disciplinary Action) Rule, 1999 and with referance to the letter, No. A. 1226/ 83/2802/2013, dated 29th April 2013 from the Hon'ble High Court, Mumbai. The Government of Maharashtra hereby appoints Shri Bhagwat Dashrath Gaikwad as Member, Industrial Court, Dhule and Shri Sharadkumar Sadashiv Patil as Member, Industrial Court, Nagpur.

By order and in the name of the Governor of Maharashtra,

DEEPA THAKUR,
Desk Officer.

५३

सोमवार, मे २७, २०१३/ज्येष्ठ ६, शके १९३५

उद्योग, ऊर्जा व कामगार विभाग

मादाम कामा मार्ग, हुतात्मा राजगुरु चौक, मंत्रालय, मुंबई ४०० ०३२, दिनांक २४ मे २०१३.

अधिसूचना

महाराष्ट्र सहायक उपक्रम (खास उपबंध) अधिनियम.

क्रमांक बीआरयु. २०१३/प्र.क्र. ९८/१३/उद्योग-१०.—महाराष्ट्र सहायक उपक्रम (खास उपबंध) अधिनियम (१९५८ चा ९६) कलम ३ आणि कलम ४ चे पोट-कलम (१), खंड(अ) उपखंड (चार) याद्वारे प्रदान करण्यात आलेल्या शक्तीचा वापर करुन महाराष्ट्र शासन याद्वारे,–

(अ) असे घोषित करीत आहे की, बेकारी निवारण्याचा एक उपाय म्हणून ज्याला राज्य शासनाने मुख्य अभियंता (विद्युत), सार्वजनिक बांधकाम विभाग, मुंबई यांचे मार्फत सामूहिक प्रोत्साहन योजना, २००१ अंतर्गत विद्युत शुल्क माफी स्वरुपात रु.२,८४,१९,९९१ (दोन कोटी चौऱ्यांशी लक्ष एकोणीस हजार, नउशे एक्याण्णव फक्त) चे अर्थसहाय्य केले आहे आणि शासनाने मुद्रांक शुल्क माफ केलेले आहे, त्या मे. मारुती कोटेक्स लिमिटेड, प्लॉट नं. टी-१७, कागल-हातकणंगले, फाईव्ह स्टार एमआयडीसी, ता. हातकणंगले, जि. कोल्हापूर, ज्याचे नोंदणीकृत कार्यालय १७-ई, शिव पार्वती, नागाळा पार्क, कोल्हापूर-४१६ ००३ येथे आहे. (ज्याला यात यापुढे ' सहायक उपक्रम ' म्हणून संबोधण्यात आले आहे.) त्याला बेकारी निवारण्याचा एक उपाय म्हणून यांस महाराष्ट्र सहायक उपक्रम (खास उपबंध) अधिनियम, १९५८ अन्वये दिनांक २४ मे २०१३ रोजी सुरु होणाऱ्या आणि दिनांक २३ मे २०१४ रोजी संपणाऱ्या (दोन्ही दिवस धरुन) एक वर्षाच्या कालावधीसाठी ' सहायक उपक्रम ' म्हणून घोषित करीत आहे ; आणि

(ब) असे निदेश देत आहे की, उक्त सहायक उपक्रमाच्या संबंधात आणि उक्त सहायक उपक्रम पुढील एक वर्षाच्या ज्या कालावधीत ' सहायक उपक्रम ' म्हणून चालू राहणार आहे त्या दिनांक २४ मे २०१३ रोजी सुरु होणाऱ्या आणि दिनांक २३ मे २०१४ रोजी संपणाऱ्या (दोन्ही दिवस धरुन) एक वर्षाच्या कालावधीच्या संबंधात उपार्जित किंवा संपादित होणारे कोणतेही हक्क, विशेषाधिकार, बंधने किंवा दायित्वे [उक्त उपक्रमाच्या कामगारांसाठी, कर्मचारी भविष्यनिर्वाह निधी आणि संकीर्ण तरतुदी अधिनियम, १९५२ (१९५२ चा १९)

आणि महाराष्ट्र जमीन महसूल संहिता, १९६६ (१९६६ चा महा. ४१) महाराष्ट्र राज्य व्यवसाय, व्यापार, उपजिविका व नोकऱ्या यावरील कर अधिनियम, १९७५ (१९७५ चा महा. १६) राज्य कामगार विमा महामंडळाच्या देय रकमा आणि महाराष्ट्र मूल्यवर्धीत कर अधिनियम, २००२ (२००५ चा महा. ९ अन्वये पत्करलेली कोणतीही दायित्वे)], अन्वये उपार्जित अथवा पत्करलेली कोणतीही बंधने किंवा दायित्वे खेरीज करुन आणि जी बंधने किंवा दायित्वे दिनांक २४ मे २०१३ च्या पूर्वी उपार्जित अथवा पत्करलेली असतील त्यांच्या अंमलबजावणीसाठी असलेली कोणतीही उपाययोजना निलंबित केली जाईल आणि कोणतेही न्यायालय, न्यायाधीकरण, अधिकारी किंवा प्राधिकरण यांच्यापुढे असलेली त्यांच्या संबंधातील सर्व कार्यवाही स्थगित केली जाईल.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

रमेश कृ. निखारगे,
कार्यासन अधिकारी.

INDUSTRIES, ENERGY AND LABOUR DEPARTMENT

Madam Cama Marg, Hutatma Rajguru Chowk, Mantralaya, Mumbai 400 032,
Dated, the 24th May 2013

NOTIFICATION

MAHARASHTRA RELIEF UNDERTAKINGS (SPECIAL PROVISIONS) ACT.

No. BRU. 2013/CR98/13/Ind.10.—In exercise of the powers conferred by sub-section (*1*) of section 3 and sub-clause (iv) of clause (a) of sub-section (*1*) of section 4 of the Maharashtra Relief Undertakings (Special Provisions) Act (XCVI of 1958), the Government of Maharashtra hereby,—

(*a*) declares that, the industrial undertaking called " Messrs Maruti Cotex Limited", Plot No. T-17 Kagal-Hatkanangale, Five star M.I.D.C., Post-Talandge, Tal-Hatkanangale, Dist-Kolhapure having its registered office at 17-E, Shiv Parvati, Nagala Park, Kolhapur-416 003 (hereinafter referred to as "the said relief undertaking"), to which financial assistance under the Package Scheme of Incentives, 2001 of Rs. 2,84,19,991 (Rupees Two crores, eighty four lakhs, nineteen thousand, nine hundred ninety one only) has been provided by the Government of Maharashtra through Chief Engineer (Electricity), Public Works Department, Mumbai, as electricity duty exemption and the exemption in stamp duty has also been provided by the Government shall for a period of one year commencing on the 24th May 2013 and ending on the 23rd May 2014 (both days inclusive), shall be conducted to serve as a measure of preventing unemployment ; and

(*b*) directs that, in relation to the said relief undertaking and in respect of the said period of one year commencing on the 24th May 2013 and ending on the 23rd May 2014 (both days inclusive), for which the said relief undertaking continues as such, any rights, privileges, obligations or liabilities except the obligations or liabilities incurred in favour of workmen of the said relief undertaking, the dues of Employees State Insurance Corporation and any liabilities incurred under the Employees Provident Fund and Miscellaneous Provisions Act, 1952 (19 of 1952), the Maharashtra Land Revenue Code, 1966 (Mah.XLI of 1966), the Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975 (Mah. XVI of 1975) and the Maharashtra Value Added Tax Act, 2002 (Mah. IX of 2005), accrued or incurred before the 24th May 2013 and any remedy for the enforcement or enforced thereof shall be suspended and all proceedings relating thereto pending before any court, tribunal, officer or authority, shall be stayed.

By order and in the name of the Governor of Maharashtra,

RAMESH K. NIKHARGE,
Desk Officer.

५४

शुक्रवार, मे ३१, २०१३/ज्येष्ठ १०, शके १९३५

उद्योग, ऊर्जा व कामगार विभाग

मादाम कामा रोड, हुतात्मा राजगुरु चौक, मंत्रालय, मुंबई ४०० ०३२,
दिनांक ३१ मे २०१३.

अधिसूचना

महाराष्ट्र दुकाने व आस्थापना अधिनियम, १९४८.

क्रमांक बीएसई. ११/२०११/प्र.क्र. २७३/कामगार-१०.—महाराष्ट्र दुकाने व आस्थापना अधिनियम, १९४८ (सन १९४८ चा महा. एकोणऐंशी) (यात यापुढे ज्याचा " उक्त अधिनियम " असा उल्लेख करण्यात आलेला आहे) याच्या कलम ४ च्या परंतुकाद्वारे प्रदान करण्यात आलेल्या अधिकारांचा वापर करून, महाराष्ट्र शासन याद्वारे, उक्त अधिनियमाच्या अनुसूची दोन मध्ये खालीलप्रमाणे सुधारणा करीत आहे :—

उक्त अधिनियमाच्या अनुसूची दोन मधील क्रमांक " ६१४ " नंतर खालील नोंदीचा समावेश करण्यात येईल :—

"६१५	मे. बी. आर. रेस्टॉरंट प्रा. लि. (क्लब एस्केप), ए१०१-१०८, क्रिस्टल प्लाझा, लिंक रोड, अंधेरी (प.), मुंबई ४०० ०५३.	उक्त अधिनियमाच्या कलम १९ मधून खालील शर्तींच्या अधीन राहून :— (१) आस्थापना कोणत्याही दिवशी पहाटे ३-०० नंतर उघडी राहणार नाही. (२) प्रत्येक कर्मचाऱ्यास त्याच्या वेतनातून कुठल्याही प्रकारची कपात न करता आठवड्यातून एक दिवस भरपगारी सुट्टी देण्यात यावी व सुट्टीसंबंधीचे प्रत्येक महिन्याचे वेळापत्रक सूचना फलकावर आगाऊ लावण्यात यावे. (३) कर्मचाऱ्यास दररोज ९ तास किंवा आठवड्यामध्ये ४८ तासांपेक्षा जास्त काम करणे आवश्यक असणार नाही व दररोजच्या कामाची व्याप्ती १२ तासांपेक्षा जास्त असणार नाही.

(४) प्रत्येक कर्मचाऱ्यास सलग पाच तास काम केल्यावर एक तासाची विश्रांती देण्यात यावी.

(५) कोणत्याही कर्मचाऱ्याला त्याच्या अतिकालिक कामाबद्दल कलम ६३ मध्ये विहित केलेल्या दराने अधिक वेतन देण्यात यावे.

(६) आठवड्याच्या व इतर सुट्टीच्या दिवशी संमती पत्र दिलेल्या कर्मचाऱ्यांनाच कामावर ठेवण्यात यावे.

(७) सदर सूट ही **शासन राजपत्रात** अधिसूचना प्रसिद्ध झाल्याच्या दिनांकापासून पाच वर्षांच्या कालावधीकरिता लागू राहील.

(८) सदर सूट ही महाराष्ट्र दुकाने व आस्थापना अधिनियम, १९४८ पुरतीच मर्यादित आहे.

(९) वरील अटी व शर्तीं व्यतिरिक्त अधिनियमातील इतर तरतुदी आस्थापनेस यथास्थिती लागू राहतील.

(१०) वरीलपैकी कोणत्याही अटींचा व शर्तींचा भंग झाल्यास सूट आपोआप रद्द होईल.”

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

ना. द. थोरवे,
कार्यासन अधिकारी.

In pursuance of Clause (3) of Article 348 of the Constitution of India, the following translation in English of the Government Notification, Industries, Energy and Labour Department, No. BSE. 11/2011/C.R. 273/Lab-10, dated the 31st May 2013 is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

BALASAHEB KOLASE,
Joint Secretary to Government.

INDUSTRIES, ENERGY AND LABOUR DEPARTMENT

Madam Kama Road, Hutatma Rajguru Chowk, Mantralaya,
Mumbai 400 032, dated the 31st May 2013.

NOTIFICATION

MAHARASHTRA SHOPS AND ESTABLISHMENT ACT, 1948.

No. BSE. 11/2011/C.R. 273/Lab-10.—In exercise of the powers conferred by the proviso to section 4 of the Maharashtra Shops and Establishment Act, 1948 (Mah. LXXIX of 1948) hereinafter referred to as the said Act the Government of Maharashtra hereby amends Schedule II of the said Act as follows, namely :—

In Schedule II of the said Act, after entry " 614 " the following Entry shall be added, namely :—

"615	M/s. B. R. Restaurant Pvt. Ltd., (Club Escape), A 101-108, Crystal Plaza, Link Road, Andheri (W.), Mumbai 400 053.	Section 19 subject to the following conditions :— (1) The establishment shall not remain open later than 3-00 a.m. (2) Every employee shall be given one day holiday in a week without making any deductions from his/her wages on account thereof and list of the time table of such holidays for a month shall be placed on the notice board in advance. (3) No employee shall be required to work for more than 9 hours in a day or 48 hours in a week. The spread over of an employee shall not exceed 12 hours in a day. (4) Every employee shall be given a rest period of one hour after 5 hours of continuous work. (5) The employees shall be entitled to overtime wages in accordance with section 63 of the said Act. (6) The employees who have given their consent letter be only placed on the day of weekly holidays or other holiday.

(7) This exemption shall ramain in operation for the period of five years from the date of Notification published in *Government Gazette.*

(8) This exemption is related only to Maharashtra Shops and Establishment Act, 1948.

(9) In spite of these terms and conditions, all the provisions of this Act shall applicable to the establishment dully.

(10) In case of violation of any of the above terms and conditions, the exemption shall stand cancelled automatically."

By order and in the name of the Governor of Maharashtra,

N. D. THORVE,
Section Officer.

५५

गुरुवार, जून ६, २०१३/ज्येष्ठ १६, शके १९३५

उद्योग, ऊर्जा व कामगार विभाग

मादाम कामा रोड, हुतात्मा राजगुरु चौक, मंत्रालय,
मुंबई ४०० ०३२, दिनांक ६ जून २०१३.

अधिसूचना

महाराष्ट्र दुकाने व आस्थापना अधिनियम, १९४८.

क्रमांक बीएसई. १०/२०१०/प्र.क्र. ३४१/कामगार-१०.— महाराष्ट्र दुकाने व आस्थापना अधिनियम, १९४८ (सन १९४८ चा महा. एकोणऐंशी) (यात यापुढे ज्याचा "उक्त अधिनियम" असा उल्लेख करण्यात आलेला आहे.) याच्या कलम ४ च्या परंतुकाद्वारे प्रदान करण्यात आलेल्या अधिकारांचा वापर करून, महाराष्ट्र शासन याद्वारे, उक्त अधिनियमाच्या अनुसूची दोन मध्ये खालीलप्रमाणे सुधारणा करीत आहे :—

उक्त अधिनियमाच्या अनुसूची दोन मधील क्रमांक "६१५" नंतर खालील नोंदींचा समावेश करण्यात येईल :—

"६१६ मे. काया लि., सी-१०, दलिया इंडस्ट्रीयल इस्टेट, लिंक रोडजवळ, अंधेरी (प.), मुंबई ४०० ०५८ यांची खालील दुकाने :—

(१) काया स्कीन क्लिनिक,
१०२, १ला मजला, सिद्धेश बिल्डिंग, शेर-ए-पंजाब, महाकाली केव्हज् रोड, अंधेरी (पूर्व), मुंबई ४०० ०९३.

(२) काया स्कीन क्लिनिक,
दुकान नं. १३, १ला मजला, समर्थ वैभव, के. एल. वालावलकर मार्गाजवळ, ओशिवरा, अंधेरी (पश्चिम), मुंबई ४०० ०५३.

(३) काया स्कीन क्लिनिक,
ॲट्रियल मॉल, पुनम चेंबरसमोर, डॉ. ॲनी बेझंट रोड, वरळी, मुंबई ४०० ०१८.

उक्त अधिनियमाच्या कलम ११ व १८ मधून खालील शर्तींच्या अधीन राहून :—

(१) आस्थापना कोणत्याही दिवशी रात्री १०-३० वाजेनंतर उघडी राहणार नाही.

(२) प्रत्येक कर्मचाऱ्यास त्याच्या वेतनातून कुठल्याही प्रकारची कपात न करता आठवड्यातून एक दिवस भरपगारी सुट्टी देण्यात यावी व सुट्टीसंबंधीचे प्रत्येक महिन्याचे वेळापत्रक सूचना फलकावर आगाऊ लावण्यात यावे.

(३) कर्मचाऱ्यास दररोज ९ तास किंवा आठवड्यामध्ये ४८ तासांपेक्षा जास्त काम करणे आवश्यक असणार नाही व दररोजच्या कामाची व्याप्ती १२ तासांपेक्षा जास्त असणार नाही.

(४) प्रत्येक कर्मचाऱ्यास सलग पाच तास काम केल्यावर किमान एका तासाची विश्रांती देण्यात यावी.

(४) काया स्कीन क्लिनिक,
तळमजला, दयाप्रभा हाऊस, आयटीआय रोड, कोबे सिजलरच्या पुढे, औंध, पुणे ४११ ००७.

(५) काया स्कीन क्लिनिक,
दुर्गा, १ला मजला, वॉटरफिल्ड रोड, टर्नर रोड, इंटरसेक्शनच्या जवळ, बांद्रा (पश्चिम), मुंबई ४०० ०५०.

(६) काया स्कीन क्लिनिक,
१ला मजला, ए-विंग, सबरी आंगन बिल्डिंग, प्लॉट नं. २२२, ११वा रस्ता, चेंबूर, मुंबई ४०० ०७१.

(७) काया स्कीन क्लिनिक,
योगेश हाऊस, ईस्ट स्ट्रीट, पुणे कंटोनमेंट बोर्ड, पुणे ४११ ००१.

(८) काया स्कीन क्लिनिक,
१ला मजला, इमराल्ड प्लाझा, हिरानंदानी मिडोज, पोखरण रोड नं. २ जवळ, ठाणे (प.) ४०० ६१०.

(९) काया स्कीन क्लिनिक,
टेन स्क्वेअर, दुकान नं. ३, १ला मजला, वानोरी, फातिमा नगर, पुणे ४११ ०१३.

(१०) काया स्कीन क्लिनिक,
यशोधाम शॉपिंग सेंटर, जनरल ए. के. वैद्य मार्ग, गोरेगाव (पूर्व), मुंबई ४०० ०६३.

(११) काया स्कीन क्लिनिक,
तळमजला, हिमालया ॲकार्ड, लॉ कॉलेज स्क्वेअर, नागपूर ४४० ०१०.

(१२) काया स्कीन क्लिनिक,
ट्रान्स ओशन हाऊस, युनिट नं. जी-०४, तळमजला, हिरानंदानी बिझनेस पार्क, पवई, मुंबई ४०० ०७६.

(१३) काया स्कीन क्लिनिक,
इनऑर्बिट मॉल, युनिट नं. एस २९, दुसरा मजला, सेक्टर नं. ३०-ए, वाशी, नवी मुंबई.

(१४) काया स्कीन क्लिनिक,
१०१, गोल्ड क्रेस्ट, १ला मजला, जुहू १० वा रोड, जेव्हीपीडी स्कीम, एचएसबीसी बँकेजवळ,जुहू, मुंबई ४०० ०४९.

(१५) काया स्कीन क्लिनिक,
तळमजला, ओरीकॉन हाऊस, १४, के दुबाश मार्ग, काळाघोडा, फोर्ट, मुंबई ४०० ०२३.

(५) आठवड्याच्या व इतर सुट्टीच्या दिवशी संमतीपत्र दिलेल्या कर्मचाऱ्यांनाच कामावर ठेवण्यात यावे.

(६) कोणत्याही कर्मचाऱ्यास त्याच्या अतिकालिक कामाबद्दल कलम ६३ मध्ये विहित केलेल्या दरानुसार अधिक वेतन देण्यात यावे.

(७) महिला कर्मचाऱ्यांसाठी कामाच्या ठिकाणी स्वतंत्र लॉकर व विश्रांतीगृह यांची व्यवस्था करण्यात यावी.

(८) सदर सूट ही मुंबई दुकाने व आस्थापना अधिनियम, १९४८ पुरतीच मर्यादित आहे.

(९) वरील अटी व शर्तींव्यतिरिक्त अधिनियमातील इतर तरतुदी आस्थापनेस यथास्थिती लागू राहतील.

(१०) सदर सूट ही **शासन राजपत्रात** अधिसूचना प्रसिद्ध झाल्याच्या दिनांकापासून एक वर्षाच्या कालावधीकरिता लागू राहील.

(११) वरीलपैकी कोणत्याही अटीचा व शर्तीचा भंग झाल्यास सूट आपोआप रद्द होईल.".

(१६) काया स्कीन क्लिनिक,
कमर्शियल प्रिमाईस नं. १६, ईएमपी-५०, एव्हरशाईन मिलेनियम पॅराडाईज, फेज-V, ठाकूर व्हिलेज, कांदिवली (पूर्व), मुंबई ४०० १०१.

(१७) काया स्कीन क्लिनिक,
प्रॉफीट सेंटर, दुकान नं. ५, महावीर नगर, कांदिवली (प.), मुंबई ४०० ०६७.

(१८) काया स्कीन क्लिनिक,
दि हब, दुकान नं. १३, १४, १५ व १६, १ला मजला, घोरपडी, फायनल प्लॉट नं. ३३२, नॉर्थ मेन रोड, कोरेगाव, पुणे ४११ ००१.

(१९) काया स्कीन क्लिनिक,
तळमजला, मंत्री वर्टेक्स, निर्मिती फर्निशिंग्ज समोर, लॉ कॉलेज रोड, पुणे ४११ ००४.

(२०) काया स्कीन क्लिनिक,
१०१, १०२, १०३, अहिमसा केशव सृष्टी कॉम्प्लेक्स, सुभिक्षासमोर, चिंचोली-मालाड लिंक रोड, मालाड (प.), मुंबई ४०० ०६४.

(२१) काया स्कीन क्लिनिक,
मार्कस्, १ला मजला, २३/सी, महल इंडस्ट्रीयल इस्टेट, ट्रॅव्हलरर्स इन हॉटेल, पेपर बॉक्स लेन, महाकाली केव्हज् रोड, अंधेरी (पूर्व), मुंबई ४०० ०९३.

(२२) काया स्कीन क्लिनिक,
१ला मजला, निर्मल लाईफ स्टाईल मॉल, एलबीएस मार्ग, मॅकडोनाल्डच्या वर, मुलुंड (पश्चिम), मुंबई ४०० ०८०.

(२३) काया स्कीन क्लिनिक,
गोल्ड्स जिम गार्डन व्ह्यु, सेंट एलिझाबेथ हॉस्पिटलसमोर, जे मेहता मार्ग, नेपियन्सी रोड, मुंबई ४०० ००६.

(२४) काया स्कीन क्लिनिक,
आनंद रुपा अपार्टमेंट, दुकान नं. १, तळमजला, पारिजात नगर, महात्मा नगर रोड, नाशिक ४२२ ००५.

(२५) काया स्कीन क्लिनिक,
मकनी मनोर, तळमजला, बेअरींग नं. ४, गोपाळराव देशमुख मार्ग, जसलोक हॉस्पिटलसमोर, पेडर रोड, मुंबई ४०० ०२८.

(२६) काया स्कीन क्लिनिक,
बावा भवन, प्लॉट नं. १८०, तळमजला,
सायन (पश्चिम), मुंबई ४०० ०२२.

(२७) काया स्कीन क्लिनिक,
१ला मजला, गणेश को. ऑप. हाऊसिंग सोसायटी, सेक्टर-१, वाशी,
नवी मुंबई ४०० ७०३.

(२८) काया स्कीन क्लिनिक,
गुजराती सोसायटी, दुकान नं. ६, ७ व ८,
तळमजला, नेहरू रोड, विलेपार्ले (पूर्व),
मुंबई ४०० ०५७.

(२९) काया स्कीन क्लिनिक,
दुकान नं. १३ व १४, तळमजला, क्रिष्णा बिल्डिंग, जयवंत पालकर मार्ग येथे प्लॉट नं. २४२, २४३ व २४४, वरळी,
मुंबई ४०० ०२५.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

ना. द. थोरवे,
कार्यासन अधिकारी.

In pursuance of Clause (3) of Article 348 of the Constitution of India, the following translation in English of the Government Notification, Industries, Energy and Labour Department, No. BSE. 10/2010/C.R. 341/LAB-10, dated the 6th June 2013 is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

BALASAHEB KOLASE,
Joint Secretary to Government.

INDUSTRIES, ENERGY AND LABOUR DEPARTMENT

Mantralaya, Mumbai 400 032, dated the 6th June 2013.

NOTIFICATION

MAHARASHTRA SHOPS AND ESTABLISHMENT ACT, 1948.

No. BSE. 10/2010/C.R. 341 /Lab-10.—In exercise of the powers conferred by the proviso to Section 4 of the Maharashtra Shops and Establishment Act, 1948 (Mah. LXXIX of 1948) hereinafter referred to as the said Act, the Government of Maharashtra hereby amends Schedule II of the said Act as follows, namely :—

In Schedule II of the said Act, after entry " 615 " the following Entry shall be added namely :—

" 616 The following shops of M/s. Kaya Skin Ltd., C-10, Dalia Industrial Estate, Off. Link Road,
Andheri (W.), Mumbai 400 058, Namely :—

(1) Kaya Skin Clinic, 102, 1st Floor, Siddhesh Building, Sher-E-Punjab, Mahakali Caves Road, Andheri (East), Mumbai 400 093.

(2) Kaya Skin Clinic, Shop No. 13, 1st Floor, Samarth Vaibhav, Off. K. L. Walawalkar Marg, Oshiwara, Andheri (West), Mumbai 400 053.

(3) Kaya Skin Clinic, Atrial Mall, Opp. Poonam Chambers, Dr. Annie Besant Road, Worli, Mumbai 400 018.

(4) Kaya Skin Clinic, Ground Floor, Dayaprabha House, ITI Road, Next to Kobe Sizzlers, Aundh, Pune 411 007.

(5) Kaya Skin Clinic, Durga, 1st Floor, Waterfield Road, Near Turner Road, Intersection, Bandra (West), Mumbai 400 050.

Section 11 and 18 subject to the following conditions :—

(1) The establishment shall not remain open after 10-30 p.m. on any day.

(2) Every employee shall be given one day holiday in a week without making any deductions from his/her wages on account thereof and list of the time table of such holidays for a month shall be placed on the notice board in advance.

(3) No employee shall be required to work for more than 9 hours in a day or 48 hours in a week. The spread over of an employee shall not exceed 12 hours in a day.

(4) Every employee shall be given a rest period of one hour after 5 hours of continuous work.

(5) The employees, who have given their consent be only placed on the day of weekly holiday or other holiday.

(6) The employees shall be entitled to overtime wages in accordance with Section 63 of the said Act.

(7) Female employees shall be provided separate lockers and rest rooms at the work place.

(8) This exemption is related only to Bombay Shops and Establishment Act, 1948.

(6) Kaya Skin Clinic, 1st Floor, A-Wing, Sabari Aangan Building, Plot No. 222, 11th Road, Chembur, Mumbai 400 071.

(7) Kaya Skin Clinic, Yogesh House, East Street, Pune Cantonment Board, Pune 411 001.

(8) Kaya Skin Clinic, 1st Floor, Emerald Plaza, Hiranandani Meadows, Off Pokhran Road No. 2, Thane (W.), 400 610.

(9) Kaya Skin Clinic, Tain Square, Shop No. 3, 1st Floor, Wanorie, Fatima Nagar, Pune 411 013.

(10) Kaya Skin Clinic, Yashodham Shopping Centre, Gen. A. K. Vaidya Marg, Goregaon (E.), Mumbai 400 063.

(11) Kaya Skin Clinic, Ground Floor, Himalaya Accord, Law College Square, Nagpur 440 010.

(12) Kaya Skin Clinic, Transocean House, Unit No. G-4, Ground Floor, Hiranandani Business Park, Powai, Mumbai 400 076.

(13) Kaya Skin Clinic, Inorbit Mall, Unit No. S 29, Second Floor, Sector No. 30-A, Vashi, Navi Mumbai.

(14) Kaya Skin Clinic, 101-Goldcrest, 1st Floor, Juhu 10th Road, J.V.P.D. Scheme, Near HSBC Bank, Juhu, Mumbai 400 049.

(15) Kaya Skin Clinic, Ground Floor, Oricon House, 14, K. Dubash Marg, Kalaghoda, Fort, Mumbai 400 023.

(9) Other than these terms and conditions, all the provisions of this Act shall applicable to the establishment duly.

(10) This exemption shall remain in operation for the period of one year from the date of Notification published in *Government Gazette*.

(11) In case of violation of any of the above terms and conditions, the exemption shall stand cancelled authomatically."

(16) Kaya Skin Clinic,
1, Commercial Premise
No. 16, Emp-50,
Evershine Millenium
Paradise, Phase-V,
Thakur Village,
Kandivali (East),
Mumbai 400 101.

(17) Kaya Skin Clinic,
Profit Centre, Shop No.
5, Mahavir Nagar,
Kandivali (West),
Mumbai 400 067.

(18) Kaya Skin Clinic,
The Hub, Shop No. 13,
14, 15 and 16, 1st Floor,
Ghorpadi, Final Plot
No. 332, North Main
Road, Koregaon,
Pune 411 001.

(19) Kaya Skin Clinic,
Ground Floor, Mantri
Vertex, Opp. Nirmitee
Furnishings, Law
College Road,
Pune 411 004.

(20) Kaya Skin Clinic,
101, 102, 103, Ahimsa
Keshav Shrushti
Complex, Opp.
Subhiksha, Chincholi-
Malad Link Road,
Malad (West),
Mumbai 400 064.

(21) Kaya Skin Clinic,
MARKS, 1st Floor,
23/C, Mahal Industrial
Estate, Opp. Travellers
Inn Hotel, Paper Box
Lane, Mahakali Caves
Road, Andheri (E.),
Mumbai 400 093.

(22) Kaya Skin Clinic,
1st Floor, Nirmal
Lifestyle Mall, L.B.S.
Marg, Above Mc Donalds,
Mulund (West),
Mumbai 400 080.

(23) Kaya Skin Clinic,
Gold's Gym
GardenView, Opp. St.
Elizabeth Hospital,
J. Mehta Marg,
Napensea Road,
Mumbai 400 006.

(24) Kaya Skin Clinic,
Anand Rupa Apartment,
Shop No. 1, Ground Floor,
Parijat Nagar, Mahatma
Nagar Road, Nashik 422 005.

(25) Kaya Skin Clinic,
Makani Manor, Ground
Floor, Bearing No. 4, Gopal
Rao Deshmukh Marg, Opp.
Jaslok Hospital, Pedder
Road, Mumbai 400 028.

(26) Kaya Skin Clinic,
Bawa Bhavan, Plot No. 180,
Ground Floor, Sion (West),
Mumbai 400 022.

(27) Kaya Skin Clinic,
First Floor, Ganesh
Co-operative Housing
Society, Sector-1, Vashi,
Navi Mumbai 400 703.

(28) Kaya Skin Clinic,
Gujarati Society, Shop No. 6,
7 and 8, Ground Floor,
Nehru Road, Vile Parle
(East), Mumbai 400 057.

(29) Kaya Skin Clinic,
Shop Nos. 13 and 14,
Ground Floor, Krishna
Building, Plot No. 242, 243
and 244 at Jaywant Palkar
Marg, Worli, Mumbai 400 025.

By order and in the name of the Governor of Maharashtra,

N. D. THORVE,
Section Officer.

५६

मंगळवार, जून १८, २०१३/ज्येष्ठ २८, शके १९३५

उद्योग, ऊर्जा व कामगार विभाग

मंत्रालय, मुंबई ४०० ०३२, दिनांक १८ जून २०१३.

अधिसूचना

महाराष्ट्र माथाडी, हमाल व इतर श्रमजीवी कामगार (नोकरीचे नियमन व कल्याण) अधिनियम, १९६९.

क्रमांक यूडब्ल्यूए. २०१३/प्र.क्र. २३१/कामगार-५.—महाराष्ट्र माथाडी, हमाल व इतर श्रमजीवी कामगार (नोकरीचे नियमन व कल्याण) अधिनियम, १९६९ (१९६९ चा महाराष्ट्र ३०) च्या कलम ६ चे पोट-कलम (१) व कलम ६ (क) नुसार शासनाने खाली नमूद माथाडी मंडळांची नव्याने रचना करण्याचे ठरविले आहे ;

आणि ज्याअर्थी, उक्त अधिनियमाच्या कलम ६ अन्वये मंडळांची नव्याने रचना करण्यास काही कालावधी लागणार असल्यामुळे ;

आणि त्याअर्थी, उपरोक्त अधिनियमाच्या कलम ६ (क) अन्वये प्रदान करण्यात आलेल्या अधिकारांचा वापर करून शासन याद्वारे खालील तक्त्यात दर्शविलेल्या रकाना क्र. २ मधील मंडळ रकाना क्र. ४ मध्ये नमूद केलेल्या दिनांकापासून "एक सदस्यीय मंडळ" म्हणून स्थापित करीत असून खालील तक्त्यात दर्शविलेल्या रकाना क्र. (२) मध्ये दर्शविलेल्या जिल्ह्यांच्या मंडळांसाठी त्या मंडळाच्या नावासमोर दर्शविलेल्या रकाना क्र. (३) मधील अधिकाऱ्यांची संबंधित मंडळाचे अध्यक्ष म्हणून नियुक्ती करीत आहे. तसेच त्यांना मंडळाची सर्व कर्तव्ये नियमाप्रमाणे पार पाडण्यासाठी वा मंडळास प्राप्त असलेल्या अधिकारांचा नियमाप्रमाणे वापर करण्यासाठी प्राधिकृत करण्यात येत आहे :—

अ.क्र. (१)	माथाडी मंडळाचे नाव (२)	अध्यक्ष (३)	दिनांक (४)
१	अमरावती माथाडी व असंरक्षित कामगार मंडळ, अमरावती.	. . श्री. रा. भा. जाधव, कामगार उप आयुक्त (अतिरिक्त कार्यभार).	. . १४ सप्टेंबर २०१२
२	औरंगाबाद माथाडी व असंरक्षित कामगार मंडळ, औरंगाबाद.	. . श्री. ना. नि. इटकरी, कामगार उप आयुक्त (अतिरिक्त कार्यभार).	. . २१ मे २०१३
३	जालना जिल्हा माथाडी व असंरक्षित कामगार मंडळ, जालना.	. . श्री. ना. नि. इटकरी, कामगार उप आयुक्त (अतिरिक्त कार्यभार).	. . २१ मे २०१३

(१)	(२)	(३)	(४)
४	सांगली जिल्हा माथाडी आणि असंरक्षित कामगार मंडळ, सांगली.	. . श्री. नितिन पां. पाटणकर, सहायक कामगार आयुक्त (अतिरिक्त कार्यभार).	. . १ फेब्रुवारी २०१३
५	रत्नागिरी व सिंधुदुर्ग जिल्हा माथाडी आणि असंरक्षित कामगार मंडळ, रत्नागिरी.	. . श्री. अ. द. गुरव, सहायक कामगार आयुक्त (अतिरिक्त कार्यभार).	. . ७ फेब्रुवारी २०१३
६	धातू व कागद बाजार मंडळ, मुंबई	. . श्री. चं. ज. किनिंगे, सहायक कामगार आयुक्त (अतिरिक्त कार्यभार).	. . १२ एप्रिल २०१३
७	कापूस बाजार कामगार मंडळ, मुंबई.	. . श्री. चं. ज. किनिंगे सहायक कामगार आयुक्त (अतिरिक्त कार्यभार).	. . १२ एप्रिल २०१३
८	परभणी-हिंगोली जिल्हा माथाडी आणि असंरक्षित कामगार मंडळ, परभणी.	. . श्री. जे. व्ही. मिटके, सहायक कामगार आयुक्त (अतिरिक्त कार्यभार).	. . २१ मे २०१३
९	नांदेड माथाडी आणि असंरक्षित कामगार मंडळ, नांदेड.	. . श्री. जे. व्ही. मिटके, सहायक कामगार आयुक्त (अतिरिक्त कार्यभार).	. . २० मे २०१३
१०	लातूर-उस्मानाबाद माथाडी आणि असंरक्षित कामगार मंडळ, लातूर.	. . श्री. पी. डी. चव्हाण, सरकारी कामगार अधिकारी (अतिरिक्त कार्यभार).	. . २१ मे २०१३
११	बीड जिल्हा माथाडी आणि असंरक्षित कामगार मंडळ, बीड.	. . श्री. पी. डी. चव्हाण, सरकारी कामगार अधिकारी (अतिरिक्त कार्यभार).	. . २१ मे २०१३

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

सु. कि. गावडे,
शासनाचे उप सचिव.

In pursuance of Clause (3) of Article 348 of the Constitution of India, the following translation in English of the Government Notification, Industries, Energy and Labour Department, No. UWA-2013/C.R. 231/LAB-5, dated the 18th June 2013, is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

S. K. GAWADE,
Deputy Secretary to Government.

INDUSTRIES, ENERGY AND LABOUR DEPARTMENT

Mantralaya, Mumbai 400 032, dated the 18th June 2013.

NOTIFICATION

MAHARASHTRA MATHADI, HAMAL AND OTHER MANUAL WORKERS (REGULATIONS OF EMPLOYMENT AND WELFARE) ACT, 1969.

No. UWA. 2013/C.R. 231/LAB-5.—In exercise of the powers conferred by sub-section (*1*) of Section 6 and Section 6 (*A*) of Maharashtra Mathadi, Hamal and Other Manual Workers (Regulation of Employment and Welfare) Act, 1969 (Mah. 30 of 1969) Government has decided to reconstitute the Boards as mentioned below;

And whereas, it will take some time to reconstitute the said Boards as per Section 6 of the said Act.

Now, therefore, in exercise of the powers conferred by Section 6 (*A*) of the said Act the Government of Maharashtra hereby constitutes the said Board as "One Man Board" from the date mentioned in Column (4) and District Board mentioned below in Column (2) of the Chart and appoints the officer mentioned in Column (3) as Chairman of the Board and authorizes him to perform all the duties according to the rules and also authorizes him to perform his rightful duties as laid down by the Board :—

Sr. No. (1)	Name of the Mathadi Board (2)	Chairman (3)	Date (4)
1	Amravati Mathadi and Unprotected Labour Board, Amravati.	.. Shri R. B. Jadhav, Deputy Commissioner of Labour. (Additional Charge)	.. 14th September 2012
2	Aurangabad Mathadi and Unprotected Labour Board, Aurangabad.	.. Shri N. N. Itkari, Deputy Commissioner of Labour. (Additional Charge)	.. 21st May 2013
3	Jalna District Mathadi and Unprotected Labour Board, Jalna.	.. Shri N. N. Itkari, Deputy Commissioner of Labour. (Additional Charge)	.. 21st May 2013

(1)	(2)	(3)	(4)
4	Sangli District Mathadi and Unprotected Labour Board, Sangli.	.. Shri Nitin P. Patankar Assistant Commissioner of Labour. (Additional Charge)	.. 1st February 2013
5	Ratnagiri and Sindhudurg District Mathadi and Unprotected Labour Board, Ratnagiri.	.. Shri A. D. Gurav, Assistant Commissioner of Labour. (Additional Charge)	.. 7th February 2013
6	Metal and Paper Market Board, Mumbai.	.. Shri C. J. Kininge, Assistant Commissioner of Labour. (Additional Charge)	.. 12th April 2013
7	Cotton Market Labour Board, Mumbai.	.. Shri C. J. Kininge, Assistant Commissioner of Labour. (Additional Charge)	.. 12th April 2013
8	Parbhani-Hingoli District Mathadi and Unprotected Labour Board, Parbhani.	.. Shri J. V. Mitke, Assistant Commissioner of Labour. (Additional Charge)	.. 21st May 2013
9	Nanded Mathadi and Unprotected Labour Board, Nanded.	.. Shri J. V. Mitke, Assistant Commissioner of Labour. (Additional Charge)	.. 20th May 2013
10	Latur-Usmanabad Mathadi and Unprotected Labour Board, Latur.	.. Shri P. D. Chavan, Government Labour Officer. (Additional Charge)	.. 21st May 2013
11	Bid District Mathadi and Unprotected Labour Board, Bid.	.. Shri P. D. Chavan, Government Labour Officer. (Additional Charge)	.. 21st May 2013

By order and in the name of the Governor of Maharashtra,

S. K. GAWADE,
Deputy Secretary to Government.

५७

मंगळवार, जून १८, २०१३/ज्येष्ठ २८, शके १९३५

उद्योग, ऊर्जा व कामगार विभाग

मंत्रालय, मुंबई ४०० ०३२, दिनांक १८ जून २०१३.

अधिसूचना

महाराष्ट्र खाजगी सुरक्षा रक्षक (नोकरीचे नियमन व कल्याण) अधिनियम, १९८१.

क्रमांक एसजीए. २०१३/प्र.क्र. २३२/कामगार-५.—महाराष्ट्र खाजगी सुरक्षा रक्षक (नोकरीचे नियमन व कल्याण) अधिनियम, १९८१ (१९८१ चा महा. ५८) च्या कलम ६ चे पोट-कलम (१), (५) व (६) नुसार शासनाने खाली नमूद पुणे जिल्हा सुरक्षा रक्षक मंडळांची नव्याने रचना करण्याचे ठरविले आहे ;

आणि ज्याअर्थी, उक्त अधिनियमाच्या कलम ६ अन्वये मंडळांची नव्याने रचना करण्यास काही कालावधी लागणार असल्यामुळे,—

उपरोक्त अधिनियमाच्या कलम ७(१) अन्वये प्रदान करण्यात आलेल्या अधिकारांचा वापर करून शासन याद्वारे खालील तक्त्यात दर्शविलेल्या रकाना क्र. २ मधील मंडळ रकाना क्र. ४ मध्ये नमूद केलेल्या दिनांकापासून "एक सदस्यीय मंडळ" म्हणून स्थापित करीत असून खालील तक्त्यात दर्शविलेल्या रकाना क्र. (२) मध्ये दर्शविलेल्या जिल्ह्याच्या मंडळांसाठी त्या मंडळाच्या नावासमोर दर्शविलेल्या रकाना क्र. (३) मधील अधिकाऱ्यांची संबंधित मंडळाचे अध्यक्ष म्हणून नियुक्ती करीत आहे. तसेच त्यांना मंडळाची सर्व कर्तव्ये नियमाप्रमाणे पार पाडण्यासाठी वा मंडळास प्राप्त असलेल्या अधिकारांचा नियमाप्रमाणे वापर करण्यासाठी प्राधिकृत करण्यात येत आहे :—

अ.क्र. (१)	सुरक्षा रक्षक मंडळाचे नाव (२)	अध्यक्ष (३)	दिनांक (४)
१	पुणे जिल्हा सुरक्षा रक्षक मंडळ . .	श्री. आर. आर. हेंद्रे, कामगार उप आयुक्त (अतिरिक्त कार्यभार).	. . ८ नोव्हेंबर २०१२
२	औरंगाबाद जिल्हा सुरक्षा रक्षक मंडळ . .	श्री. ना. नि. इटकरी, कामगार उप आयुक्त (अतिरिक्त कार्यभार).	. . २१ मे २०१३
३	सांगली जिल्हा सुरक्षा रक्षक मंडळ . .	श्री. नितिन पां. पाटणकर, सहायक कामगार आयुक्त (अतिरिक्त कार्यभार).	. . १ फेब्रुवारी २०१३

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

सु. कि. गावडे,
शासनाचे उप सचिव.

In pursuance of Clause (*3*) of Article 348 of the Constitution of India, the following translation in English of the Government Notification, Industries, Energy and Labour Department, No. SGA. 2013/C.R. 232/LAB-5, dated the 18th June 2013, is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

S. K. GAWADE,
Deputy Secretary to Government.

INDUSTRIES, ENERGY AND LABOUR DEPARTMENT

Mantralaya, Mumbai 400 032, dated the 18th June 2013.

NOTIFICATION

MAHARASHTRA PRIVATE SECURITY GUARDS (REGULATIONS OF EMPLOYMENT AND WELFARE) ACT, 1981.

No. SGA. 2013/C.R. 232/LAB-5.—In exercise of the powers conferred by sub-sections (*1*), (*5*) and (*6*) of Section 6 of Maharashtra Private Security Guards (Regulation of Employment and Welfare) Act, 1981 (Mah. LVIII of 1981) (hereinafter referred to the said Act) Government has decided to reconstitute the Boards as mentioned below ;

And whereas, it will take some time to reconstitute the said Boards as per Section 6 of the said Act.

Now, therefore, in exercise of the powers conferred by section 7(*1*) of the said Act the Government of Maharashtra hereby constitutes the said Board as "One Man Board" from the date mentioned in column (4) and District Board mentioned below in Column (2) of the Chart and appoints the officer metioned in Column (3) as Chairman of the Board and authorizes them to perform all the duties according to the rules and also authorizes them to perform their rightful duties as laid down by the Board :—

Sr. No. (1)	Name of the Security Guard Board (2)	Chairman (3)	Date (4)
1	Pune District Security Guards Board.	Shri R. R. Hendre, Deputy Commissioner of Labour. (Additional Charge)	8th November 2012
2	Aurangabad District Security Guards Board.	Shri N. N. Itkari, Deputy Commissioner of Labour. (Additional Charge)	21st May 2013
3	Sangli District Security Guards Board.	Shri Nitin P. Patankar, Assistant Commissioner of Labour. (Additional Charge)	1st February 2013.

By order and in the name of the Governor of Maharashtra,

S. K. GAWADE,
Deputy Secretary to Government.

५८

बुधवार, जून १९, २०१३/ज्येष्ठ २९, शके १९३५

उद्योग, ऊर्जा व कामगार विभाग

मादाम कामा रोड, हुतात्मा राजगुरु चौक, मंत्रालय,
मुंबई ४०० ०३२, दिनांक १९ जून २०१३.

अधिसूचना

किमान वेतन अधिनियम, १९४८.

क्रमांक किवेअ. २०१३/५१/प्र.क्र. ३१/कामगार-७.—ज्याअर्थी, महाराष्ट्र राज्यातील " केश कर्तनालये, केश भूषणालये किंवा हमामखाना यातील कामधंदा " या रोजगारात असलेल्या (यात यापुढे ज्याचा उक्त अनुसूचित रोजगार असा उल्लेख करण्यात आलेला आहे) कामगारांना देय असलेले किमान वेतन दर शासन अधिसूचना, उद्योग, ऊर्जा व कामगार विभाग, क्रमांक किवेअ. २२००३/प्र.क्र. १२६/कामगार-७, दिनांक ९ फेब्रुवारी २००७ अन्वये पुनर्निर्धारित केले आहेत ;

आणि ज्याअर्थी, महाराष्ट्र शासनाने पुनर्विलोकन करून उक्त अनुसूचित रोजगारातील कामगारांना देय असलेले किमान वेतन दर पुनर्निर्धारित करण्याचे ठरविले आहे.

त्याअर्थी, आता किमान वेतन अधिनियम, १९४८ (१९४८ चा ११) हा महाराष्ट्र राज्यास लागू करताना त्याच्या कलम ३ च्या पोट-कलम (१) चा खंड (ब) आणि कलम ५ च्या पोट-कलम (२) याद्वारे प्रदान करण्यात आलेल्या अधिकारांचा वापर करून महाराष्ट्र शासन, शासकीय अधिसूचना, उद्योग, ऊर्जा व कामगार विभाग, क्रमांक किवेअ. २०११/प्र.क्र. २८९/कामगार-७, दिनांक २९ फेब्रुवारी २०१२ मध्ये प्रसिद्ध झालेल्या प्रस्तावाच्या संबंधात मिळालेली सर्व अभिवेदने विचारात घेतल्यानंतर आणि सल्लागार मंडळाचा सल्ला विचारात घेतल्यानंतर महाराष्ट्र शासन याद्वारे दिनांक १९ जून २०१३ पासून उक्त अनुसूचित रोजगारात नोकरीत असलेल्या खालील अनुसूचीच्या स्तंभ (२) मध्ये नमूद केलेल्या कामगारांच्या वर्गाला त्या अनुसूचीच्या स्तंभ (३) मध्ये नमूद केल्याप्रमाणे वेतनाचे किमान वेतन दर पुनर्निर्धारित करीत आहे :—

अनुसूची

अ.क्र.	कामगारांची वर्गवारी	मूळ किमान वेतन दर (दरमहा रुपये)		
		परिमंडळ-१	परिमंडळ-२	परिमंडळ-३
(१)	(२)		(३)	
१	कुशल	७,७००	७,४००	६,९००
२	अर्धकुशल	७,०००	६,७००	६,२००
३	अकुशल	६,५००	६,२००	५,७००

स्पष्टीकरण.—या अधिसूचनेच्या प्रयोजनार्थ,—

(ए) **परिमंडळ एक.**—महाराष्ट्र राज्यातील सर्व महानगरपालिकांच्या हद्दीमधील सर्व क्षेत्रांचे मिळून होईल ;

(बी) **परिमंडळ दोन.**—महाराष्ट्र राज्यातील 'अ' व 'ब' वर्ग नगरपालिकांच्या हद्दीमधील सर्व क्षेत्र/छावणी क्षेत्र मिळून होईल ;

(सी) **परिमंडळ तीन.**—परिमंडळ १ व २ वगळून राज्याच्या उर्वरित क्षेत्रांचे मिळून होईल ;

(डी) रोजंदारीवर काम करणाऱ्या कामगारांना देय असलेले मजुरीचे किमान दर तो कामगार ज्या वर्गाचा असेल त्या वर्गासाठी निश्चित करण्यात आलेल्या मासिक मजुरीच्या दरांना २६ ने भागून येणारा भागाकार नजिकच्या पैशांपर्यंत पूर्णांकात करून काढण्यात येईल ;

(इ) अर्धवेळ काम करणाऱ्या कामगारांना देय असलेल्या प्रति तास किमान वेतनाचा दर तो कामगार ज्या वर्गवारीच्या असेल, त्या वर्गवारीच्या रोजंदारी किमान वेतनास ८ तासाने भागून व त्यात १५% वाढ करून तसेच येणारी रक्कम नजिकच्या पैशापर्यंत पूर्णांकात परिवर्तित करण्यात येऊन काढण्यात येईल ;

(फ) किमान वेतन दरामध्ये साप्ताहिक सुट्टीच्या वेतनाचा समावेश असेल ;

(जी) किमान वेतन दरामध्ये मूळ दर, विशेष भत्ता आणि सवलती असल्यास त्याचे रोख मूल्य यासाठी अनुज्ञेय असलेल्या सर्व दरांचा समावेश असेल ;

(एच) एखादा कुशल कामगार म्हणजे जो स्वतःच्या निर्णय शक्तीनुसार आपले काम कार्यक्षमतेने व जबाबदारीने पार पाडू शकतो असा कामगार ;

(आय) अर्धकुशल कामगार म्हणजे सर्वसाधारणपणे नित्याच्या स्वरूपाचे काम करतो की, ज्यामध्ये निर्णय घेण्याची फारशी गरज नसते. परंतु तुलनेने त्याला दिलेले छोटेसे काम की, ज्यामध्ये महत्त्वाचे निर्णय इतरांकडून घेतले जातात असे काम योग्य रीतीने पार पाडण्याची आवश्यकता असते. मर्यादित व्याप्तीचे नित्याचे काम पार पाडणे हेच त्याचे कर्तव्य असते ;

(जे) अकुशल कामगार म्हणजे ज्यास लहानसा किंवा स्वतंत्र निर्णय घेणे आणि पूर्वानुभव असणे आवश्यक नाही. परंतु तरीही व्यावसायिक परिस्थितीची माहिती असणे आवश्यक आहे असे साध्या कर्तव्य पालनाचा अंतर्भाव असलेले काम करणारा कामगार म्हणून त्याच्या कामासाठी शारीरिक परिश्रमाशिवाय निरनिराळ्या वस्तूंची किंवा मालाची त्याला चांगली माहिती असणे आवश्यक असेल.

परिशिष्ट

महाराष्ट्र राज्यातील १० केंद्रांचा सरासरी ग्राहक मूल्य निर्देशांक (नवीन मालिका २००१-१००) हा उक्त अनुसूचीत रोजगारात नोकरी करत असलेल्या कामगारांना लागू असलेल्या राहणीमान निर्देशांक असेल, महाराष्ट्र शासनाने नियुक्त केलेला सक्षम प्राधिकारी १ जानेवारी व १ जुलै रोजी सुरू होणाऱ्या प्रत्येक सहामाहिच्या समाप्तीनंतर त्या सहा महिन्यांसाठी उक्त कर्मचाऱ्यांना लागू असलेल्या राहणीमान निर्देशांकाची सरासरी काढील आणि १९६ निर्देशांकावर अशा प्रत्येक अंकाच्या वाढीसाठी ज्या सहामाहिच्या संबंधात अशी सरासरी काढण्यात आलेली असेल, त्या सहा महिन्यांलगत पुढील सहामाहिसाठी उक्त कर्मचाऱ्यांना देय असलेला विशेष भत्ता (यात यानंतर ज्याचा राहणीमान भत्ता असा निर्देश करण्यात आला आहे) सर्व परिमंडळाच्या संबंधित दरमहा रुपये २८.०० दराने असेल.

२. सक्षम प्राधिकारी, **शासकीय राजपत्रातील** अधिसूचनेद्वारे, उपरोक्तप्रमाणे हिशेब करून काढलेला राहणीमान भत्ता, जानेवारी ते जून या कालावधीतील प्रत्येक महिन्यासाठी देय असेल तेव्हा जानेवारी महिन्याच्या शेवटच्या आठवड्यामध्ये आणि जुलै ते डिसेंबर या कालावधीमधील प्रत्येक महिन्यासाठी देय असेल तेव्हा जुलै महिन्याच्या शेवटच्या आठवड्यामध्ये सक्षम प्राधिकाऱ्याकडून **शासकीय राजपत्रातील** अधिसूचनेद्वारे जाहीर करण्यात येईल :

परंतु सक्षम प्राधिकारी किमान वेतन निश्चित केल्याच्या दिनांकापासून देय असलेला राहणीमान भत्ता जून किंवा डिसेंबर अखेरपर्यंतच्या किंवा यथास्थिती, किमान वेतन दर निश्चित करण्यात आल्याच्या दिनांकानंतर लगेचच जाहीर करील.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

ज. आ. खवणेकर,
शासनाचे अवर सचिव.

In pursuance of clause (3) of article 348 of the Constitution of India, the following translation in English of the Government Notification, No. MWA. 2013/51/CR-31/LAB-7, dated the 19th June 2013 published in the *Maharashtra Government Gazette,* Part I-L, Extra-ordinary is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

J. A. KHAVNEKAR,
Under Secretary to Government.

INDUSTRIES, ENERGY AND LABOUR DEPARTMENT

Madam Cama Road, Hutatma Rajguru Chowk, Mantralaya,
Mumbai 400 032, dated the 19th June 2013.

NOTIFICATION

MINIMUM WAGES ACT, 1948.

No. MWA. 2013/51/CR-31/LAB-7.—Whereas, by the Government Notification, Industries, Energy and Labour Department, No. MWA. 22003/CR-126/Lab-7, dated the 9th February 2007, the Government of Maharashtra has revised the minimum rates of wages payable to the employees employed in the Scheduled Employment, *viz*. " Employment in hair cutting saloon, hair dressing saloon or hammam khana" (hereinafter referred to as "the said scheduled employment") in the State of Maharashtra ;

And whereas, the Government of Maharashtra, having reviewed the minimum rates of wages payable to the employees employed in the said scheduled employment, considers it necessary to revise them further.

Now, therefore, in exercise of the powers conferred by clause *(b)* of sub-section *(1)* of section 3 read with sub-section *(2)* of section 5 of the Minimum Wages Act, 1948 (11 of 1948), in its application to the State of Maharashtra, the Government of Maharashtra, after considering all the representations received by it in respect of the proposal published in the Government Notification, Industries, Energy and Labour Department, No. MWA.2011/CR-289/Lab-7, dated the 29th February 2012, and after consulting the Advisory Board, hereby revises, with effect from 19th June 2013 the minimum rates of wages payable to the employees employed in the said scheduled employment and refixes them, as set out in column (3) of the Schedule appended hereto, as the minimum rates of wages payable to the class of employees mentioned against them in column (2) of the said Schedule :—

Schedule

Sr.No.	Class of Employees	Minimum rates of wages(basic rate) (per month) (in rupees)		
		Zone-I	Zone-II	Zone-III
(1)	(2)		(3)	
1	Skilled	7,700	7,400	6,900
2	Semi-skilled	7,000	6,700	6,200
3	Unskilled	6,500	6,200	5,700

Explanation.—For the purposes of this notification—

(a) Zone-I.—It shall comprise of the areas falling within the limits of all the Municipal Corporations ;

(b) Zone-II.—It shall comprise of the areas falling within the limits of all "A" and "B" Grade Municipal Councils and cantonment areas ;

(c) Zone-III.—It shall comprise of all other areas in the State not included in Zone I and Zone II ;

(d) the minimum rates of daily wages payable to an employee employed on daily wages shall be computed by dividing the minimum rates of monthly wages fixed for the class of employees to which he belongs by twenty six, the quotient being stepped upto the nearest *paisa ;*

(*e*) the minimum rates of hourly wages payble to part-time employee shall be computed by dividing the daily rates of minimum wages applicable to the concerned class of employees by eight hours with 15% rise in it and quotient being stepped upto the nearest *paisa ;*

(*f*) the minimum rates of wages shall be inclusive of the payment of remuneration in respect of weekly day of rest ;

(g) the minimum rates of wages shall consist of basic rates, the cost of living allowance, the cash value of concessions, if any ;

(h) a skilled employee is one, who is capable of working efficiently, of exercising considerable independent judgment and discharging his duties responsibly ;

(i) a semi-skilled employee is one, who does work generally of a well defined routine nature, wherein the major requirement is not so much of the judgement, skills and dexterity, but of proper discharge of duties assigned to him for a relatively narrow job and important decisions are made by others. His work is thus limited to the performance of routine operation of limited scope ;

(j) an unskilled employee is one, who does operations that involve the performance of simple duties which require exercise of little or no independent judgment or previous experience, although a familiarity with the occupational environment is necessary. His work may thus require, in addition to physical exertion, familiarity with a variety of articles or goods.

APPENDIX

The average Consumer Price Index Number in respect of ten centres in the State of Maharashtra for working class (New Series 2001=100) shall be the Cost of Living Index Number applicable to the employees employed in the said scheduled employment. The Competent Authority appointed by the Government shall, after the expiry of every six months commencing on the first day of January and the first day of July, calculate the average of the Cost of Living Index Number applicable to the said employee for these six months and ascertain the rise of such average over 196 points. For such rise of every point, special allowance (hereinafter referred to as "the Cost of Living Allowance"), payable to the employee in the said scheduled employment for each of the six months immediately following six months in respect of which such average has been calculated at the rate of Rs. 28.00 per month in respect of all the zones.

2. The Cost of Living Allowance computed as aforesaid shall be declared by the Competent Authority, by notification in the *Official Gazette,* in the last week of July when such allowance is payable for each of the months from July to December and in the last week of January, when such allowance is payable for each of the months from January to June :

Provided that, the Competent Authority shall declare the Cost of Living Allowance payable in respect of the period from the date of fixation of the rate of minimum wages to the end of December or June, as the case may be, immediately after the said date with effect from which the minimum rates of wages are fixed.

By order and in the name of the Governor of Maharashtra,

J. A. KHAVNEKAR,
Under Secretary to Government.

५९

बुधवार, जून १९, २०१३/ज्येष्ठ २९, शके १९३५

उद्योग, ऊर्जा व कामगार विभाग

मादाम कामा रोड, हुतात्मा राजगुरु चौक, मंत्रालय
मुंबई ४०० ०३२, दिनांक १९ जून २०१३

अधिसूचना

किमान वेतन अधिनियम, १९४८.

क्रमांक किवेअ. २०१३/१८७/प्र.क्र. ८९/कामगार-७.—ज्याअर्थी, महाराष्ट्र राज्यातील " अनुसूचीच्या भाग १ मध्ये नोंद १३ खाली समाविष्ट न होणाऱ्या आहारगृहामधील व क्लबामधील कामधंदा " या रोजगारात असलेल्या (यात यापुढे ज्याचा " उक्त अनुसूचित रोजगार " असा उल्लेख करण्यात आलेला आहे.) कामगारांना देय असलेले किमान वेतन दर शासन अधिसूचना, उद्योग, ऊर्जा व कामगार विभाग, क्रमांक किवेअ. ३२००३/प्र.क्र. १५७/कामगार-७, दिनांक १४ मे २००७ अन्वये पुनर्निर्धारित केले आहेत ;

आणि त्याअर्थी, महाराष्ट्र शासनाने पुनर्विलोकन करून उक्त अनुसूचित रोजगारातील कामगारांना देय असलेले किमान वेतन दर पुनर्निर्धारित करण्याचे ठरविले आहे.

त्याअर्थी, आता किमान वेतन अधिनियम, १९४८ (१९४८ चा क्र. ११) हा महाराष्ट्र राज्यास लागू करताना त्याच्या कलम ३ च्या पोट-कलम (१) चा खंड (ब) आणि कलम ५ च्या पोट-कलम (२) याद्वारे प्रदान करण्यात आलेल्या अधिकारांचा वापर करून महाराष्ट्र शासन, शासकीय अधिसूचना, उद्योग, ऊर्जा व कामगार विभाग, क्रमांक किवेअ. २०१२/८/प्र.क्र. ११/कामगार-७, दिनांक २८ मार्च २०१२ मध्ये प्रसिद्ध झालेल्या प्रस्तावाच्या संबंधात मिळालेली सर्व अभिवेदने विचारात घेतल्यानंतर आणि सल्लागार मंडळाचा सल्ला विचारात घेतल्यानंतर महाराष्ट्र शासन याद्वारे दिनांक १९ जून २०१३ पासून उक्त अनुसूचित रोजगारात नोकरीत असलेल्या खालील अनुसूचीच्या स्तंभ (२) मध्ये नमूद केलेल्या कामगारांच्या वर्गाला त्या अनुसूचीच्या स्तंभ (३) मध्ये नमूद केल्याप्रमाणे वेतनाचे किमान वेतन दर पुनर्निर्धारित करीत आहे :—

अनुसूची

अ.क्र.	कामगारांची वर्गवारी	किमान मूळ वेतन दर (दरमहा रुपये)		
		परिमंडळ-१	परिमंडळ-२	परिमंडळ-३
(१)	(२)		(३)	
१	कुशल	७,७००	७,४००	७,२००
२	अर्धकुशल	७,०००	६,७००	६,५००
३	अकुशल	६,५००	६,२००	६,०००

स्पष्टीकरण.—या अधिसूचनेच्या प्रयोजनार्थ,—

(ए) **परिमंडळ एक.**—महाराष्ट्र शासनाच्या नगर विकास विभागाच्या शासन निर्णय क्र. संकीर्ण. १००५/वर्गीकरण/प्र.क्र. ३७९/ ०५/नवि-२४, दिनांक ४ मे २००६ अन्वये घोषित केलेले महाराष्ट्र राज्यातील अ,ब,क व ड महानगरपालिकांचे क्षेत्र, छावणी क्षेत्र तसेच महानगरपालिका क्षेत्रांपासून २० किलोमीटर पर्यंतचे औद्योगिक क्षेत्र ;

(बी) **परिमंडळ दोन.**—महाराष्ट्र राज्यातील अ, ब व क वर्ग नगरपरिषद क्षेत्र, तसेच नगरपरिषद क्षेत्रापासूनचे २० किलोमीटर पर्यंतचे औद्योगिक क्षेत्र ;

(सी) **परिमंडळ तीन.**—परिमंडळ १ व २ समोर दर्शविलेले क्षेत्र वगळून उर्वरित सर्व क्षेत्र ;

(डी) रोजंदारीवर काम करणाऱ्या कामगारांना देय असलेले मजुरीचे किमान दर तो कामगार ज्या वर्गाचा असेल त्या वर्गासाठी निश्चित करण्यात आलेल्या मासिक मजुरीच्या दरांना २६ ने भागून येणारा भागाकार नजिकच्या पैशांपर्यंत पूर्णांकात करून काढण्यात येईल ;

(इ) अर्धवेळ काम करणाऱ्या कामगारांना देय असलेल्या प्रति तास किमान वेतनाचा दर तो कामगार ज्या वर्गवारीचा असेल, त्या वर्गवारीच्या रोजंदारी किमान वेतनास ८ तासाने भागून व त्यात १५% वाढ करून तसेच येणारी रक्कम नजिकच्या पैशांपर्यंत पूर्णांकात परिवर्तित करण्यात येऊन काढण्यात येईल ;

(फ) किमान वेतन दरामध्ये साप्ताहिक सुट्टीच्या वेतनाचा समावेश असेल ;

(जी) किमान वेतन दरामध्ये मूळ दर, विशेष भत्ता आणि सवलती असल्यास त्याचे रोख मूल्य यासाठी अनुज्ञेय असलेल्या सर्व दरांचा समावेश असेल ;

(एच) एखादा कुशल कामगार म्हणजे जो स्वत:च्या निर्णय शक्तीनुसार आपले काम कार्यक्षमतेने व जबाबदारीने पार पाडू शकतो असा कामगार ;

(आय) अर्धकुशल कामगार म्हणजे सर्वसाधारणपणे नित्याच्या स्वरूपाचे काम करतो की, ज्यामध्ये निर्णय घेण्याची फारशी गरज नसते. परंतु तुलनेने त्याला दिलेले छोटेसे काम की, ज्यामध्ये महत्त्वाचे निर्णय इतरांकडून घेतले जातात असे काम योग्य रीतीने पार पाडण्याची आवश्यकता असते. मर्यादित व्याप्तीचे नित्याचे काम पार पाडणे हेच त्याचे कर्तव्य असते ;

(जे) अकुशल कामगार म्हणजे ज्यास लहानसा किंवा स्वतंत्र निर्णय घेणे आणि पूर्वानुभव असणे आवश्यक नाही. परंतु तरीही व्यावसायिक परिस्थितीची माहिती असणे आवश्यक आहे असे साध्या कर्तव्य पालनाचा अंतर्भाव असलेले काम करणारा कामगार म्हणून त्याच्या कामासाठी शारीरिक परिश्रमाशिवाय निरनिराळ्या वस्तूंची किंवा मालाची त्याला चांगली माहिती असणे आवश्यक असेल.

परिशिष्ट

महाराष्ट्र राज्यातील १० केंद्रांचा सरासरी ग्राहक मूल्य निर्देशांक (नवीन मालिका २००१-१००) हा उक्त अनुसूचित रोजगारात नोकरी करत असलेल्या कामगारांना लागू असलेल्या राहणीमान निर्देशांक असेल, महाराष्ट्र शासनाने नियुक्त केलेला सक्षम प्राधिकारी १ जानेवारी व १ जुलै रोजी सुरू होणाऱ्या प्रत्येक सहामाहीच्या समाप्तीनंतर त्या सहा महिन्यांसाठी उक्त कर्मचाऱ्यांना लागू असलेल्या राहणीमान निर्देशांकाची सरासरी काढील आणि १९६ निर्देशांकावर अशा प्रत्येक अंकाच्या वाढीसाठी ज्या सहामाहीच्या संबंधात अशी सरासरी काढण्यात आलेली असेल, त्या सहा महिन्यांलगत पुढील सहामाहीसाठी उक्त कर्मचाऱ्यांना देय असलेला विशेष भत्ता (यात यानंतर ज्याचा " राहणीमान भत्ता " असा निर्देश करण्यात आला आहे) सर्व परिमंडळाच्या संबंधित दरमहा रुपये २८.०० दराने असेल.

२. सक्षम प्राधिकारी, **शासकीय राजपत्रातील** अधिसूचनेद्वारे, उपरोक्त प्रमाणे हिशेब करून काढलेला राहणीमान भत्ता, जानेवारी ते जून कालावधीतील प्रत्येक महिन्यासाठी देय असेल तेव्हा जानेवारी महिन्याच्या शेवटच्या आठवड्यामध्ये आणि जुलै ते डिसेंबर या कालावधीमधील प्रत्येक महिन्यासाठी देय असेल तेव्हा जुलै महिन्याच्या शेवटच्या आठवड्यामध्ये जाहीर करील:

परंतु सक्षम प्राधिकारी किमान वेतन निश्चित केल्याच्या दिनांकापासून देय असलेला राहणीमान भत्ता जून किंवा डिसेंबर अखेरपर्यंतच्या किंवा यथास्थिती, किमान वेतन दर निश्चित करण्यात आल्याच्या दिनांकानंतर लगेचच जाहीर करील.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

ज. आ. खवणेकर,
शासनाचे अवर सचिव.

In pursuance of clause (3) of article 348 of the Constitution of India the following translation in English of the Government Notification, No. MWA. 2013/187/CR-89/LAB-7, dated the 19th June 2013 published in the *Maharashtra Government Gazette,* Part I-L, Extra Ordinary is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

J. A. KHAVNEKAR,
Under Secretary to Government.

INDUSTRIES, ENERGY AND LABOUR DEPARTMENT

Madam Cama Road, Hutatma Rajguru Chowk, Mantralaya,
Mumbai 400 032, Dated the 19th June 2013.

NOTIFICATION

MINIMUM WAGES ACT, 1948.

No. MWA. 2013/187/CR-89/LAB-7.—Whereas, by the Government Notification, Industries, Energy and Labour Department, No. MWA. 32003/CR-157/ Lab-7, dated the 14th May 2007, the Government of Maharashtra has revised the minimum rates of wages payable to the employees employed in the Scheduled Employment, *viz*," Employment in canteens and clubs not falling under entry 13 of part I of the Schedule to the Minimum Wages Act, 1948 " (hereinafter referred to as "the said scheduled employment") in the State of Maharashtra;

And whereas, the Government of Maharashtra, having reviewed the minimum rates of wages payable to the employees employed in the said scheduled employment, considers it necessary to revise them further.

Now, therefore, in exercise of the powers conferred by clause *(b)* of sub-section *(1)* of section 3 read with sub-section *(2)* of section 5 of the Minimum Wages Act, 1948 (XI of 1948), in its application to the State of Maharashtra, the Government of Maharashtra, after considering all the representations received by it in respect of the proposal published in the Government Notification, Industries, Energy and Labour Department No. MWA. 2012/8/CR-11/Lab-7, dated the 28th March 2012, and after consulting the Advisory Board, hereby revises, with effect from 19th June 2013 the minimum rates of wages payable to the employees employed in the said scheduled employment and refixes them, as set out in column (3) of the Schedule appended hereto, as the minimum rates of wages payable to the class of employees mentioned against them in column (2) of the said Schedule :—

Schedule

Sr.No.	Class of Employees	Minimum rates of wages (per month basic rates in rupees)		
		Zone-I	Zone-II	Zone-III
(1)	(2)		(3)	
1	Skilled	7,700	7,400	7,200
2	Semi-skilled	7,000	6,700	6,500
3	Unskilled	6,500	6,200	6,000

Explanation .—For the purposes of this notification,—

(a) Zone-I.—shall comprise of the areas falling within the limits of all " A ", " B ","C " and " D " class Municipal Corporations, as so declared by the Government of Maharashtra *vide* Government Resolution, Urban Development Department, No. Sankirna. 1005/ vargikaran/C.R. 379/05/Navi-24, dated the 4th May 2006, cantonment areas and Industrial areas within 20 Kilometers radius from all Municipal Corporation limit ;

(b) Zone-II.—shall comprise of the areas falling within the limits of all "A", "B" and " C " Grade Municipal Councils and Industrial areas within 20 Kilometers radius from all Municipal Council limit :

(c) Zone-III.—shall comprise of all other areas in the State not included in Zone I and Zone II;

(d) the minimum rates of daily wages payable to an employee employed on daily wages shall be computed by dividing the minimum rates of monthly wages fixed for the class of employees to which he belongs by twenty six, the quotient being stepped upto the nearest *paisa;*

(*e*) the minimum rates of hourly wages payble to part-time employee shall be computed by dividing the daily rates of minimum wages applicable to the concerned class of employees by eight (hours) with 15% rise in it and quotient being stepped upto the nearest *paisa;*

(*f*) the minimum rates of wages shall be inclusive of the payment of remuneration in respect of weekly day of rest;

(g) the minimum rates of wages shall consist of basic rates, the cost of living allowance, the cash value of concessions , if any;

(h) a skilled employee is one, who is capable of working efficiently, of exercising considerable independent judgment and discharging his duties responsibly;

(i) a semi-skilled employee is one, who does work generally of a well defined routine nature, wherein the major requirement is not so much of the judgement, skills and dexterity, but of proper discharge of duties assigned to him for a relatively narrow job and important decisions are made by others. His work is thus limited to the performance of routine operation of limited scope;

(j) an unskilled employee is one, who does operations that involve the performance of simple duties which require exercise of little or no independent judgment or previous experience, although a familiarity with the occupational environment is necessary. His work may thus require, in addition to physical exertion, familiarity with a variety of articles or goods.

APPENDIX

The average Consumer Price Index Number in respect of ten centres in the State of Maharashtra for working class (New Series 2001=100) shall be the Cost of Living Index Number applicable to the employees employed in the said scheduled employment. The Competent Authority appointed by the Government shall, after the expiry of every six months commencing on the first day of January and the first day of July, calculate the average of the Cost of Living Index Number applicable to the said employee for these six months and ascertain the rise of such average over 196 points. For such rise of every point, special allowance (hereinafter referred to as "the Cost of

Living Allowance"), payable to the employee in the said scheduled employment for each of the six months immediately following six months in respect of which such average has been calculated at the rate of Rs. 28.00 per month in respect of all the zones.

2. The Cost of Living Allowance computed as aforesaid shall be declared by the Competent Authority, by notification in the *Official Gazette,* in the last week of July when such allowance is payable for each of the months from July to December and in the last week of January, when such allowance is payable for each of the months from January to June :

Provided that, the Competent Authority shall declare the Cost of Living Allowance payable in respect of the period from the date of fixation of the rate of minimum wages to the end of December or June, as the case may be, immediately after the said date with effect from which the minimum rates of wages are fixed.

By order and in the name of the Governor of Maharashtra,

J. A. KHAVNEKAR,
Under Secretary to Government.

६०

बुधवार, जून १९, २०१३/ज्येष्ठ २९, शके १९३५

उद्योग, ऊर्जा व कामगार विभाग

मादाम कामा रोड, हुतात्मा राजगुरु चौक, मंत्रालय
मुंबई ४०० ०३२, दिनांक १९ जून २०१३

अधिसूचना

किमान वेतन अधिनियम, १९४८.

क्रमांक किवेअ. २०१३/५४/प्र.क्र. २९/कामगार-७.—ज्याअर्थी, महाराष्ट्र राज्यातील " सौंदर्य प्रसाधने व साबण बनविणाऱ्या कोणत्याही कारखान्यातील कामधंदा " या रोजगारात असलेल्या (यात यापुढे ज्याचा " उक्त अनुसूचित रोजगार " असा उल्लेख करण्यात आलेला आहे.) कामगारांना देय असलेले किमान वेतन दर शासन अधिसूचना, उद्योग, ऊर्जा व कामगार विभाग, क्रमांक किवेअ. ४२००३/प्र.क्र. १७६/कामगार-७, दिनांक ९ फेब्रुवारी २००७ अन्वये पुनर्निर्धारित केले आहेत ;

आणि ज्याअर्थी, महाराष्ट्र शासनाने पुनर्विलोकन करून उक्त अनुसूचित रोजगारातील कामगारांना देय असलेले किमान वेतन दर पुनर्निर्धारित करण्याचे ठरविले आहे.

त्याअर्थी, आता किमान वेतन अधिनियम, १९४८ (१९४८ चा ११) हा महाराष्ट्र राज्यास लागू करताना त्याच्या कलम ३ च्या पोट-कलम (१) चा खंड (ब) आणि कलम ५ च्या पोट-कलम (२) याद्वारे प्रदान करण्यात आलेल्या अधिकारांचा वापर करून महाराष्ट्र शासन, शासकीय अधिसूचना, उद्योग, ऊर्जा व कामगार विभाग, क्रमांक किवेअ. २०११/प्र.क्र. २९१/कामगार-७, दिनांक ३ मार्च २०१२ मध्ये प्रसिद्ध झालेल्या प्रस्तावाच्या संबंधात मिळालेली सर्व अभिवेदने विचारात घेतल्यानंतर आणि सल्लागार मंडळाचा सल्ला विचारात घेतल्यानंतर महाराष्ट्र शासन याद्वारे दिनांक १९ जून २०१३ पासून उक्त अनुसूचित रोजगारात नोकरीत असलेल्या खालील अनुसूचिच्या स्तंभ (२) मध्ये नमूद केलेल्या कामगारांच्या वर्गाला त्या अनुसूचिच्या स्तंभ (३) मध्ये नमूद केल्याप्रमाणे वेतनाचे किमान वेतन दर पुनर्निर्धारित करीत आहे :—

अनुसूची

अ.क्र.	कामगारांची वर्गवारी	मूळ किमान वेतन दर (दरमहा)		
		परिमंडळ-१	परिमंडळ-२	परिमंडळ-३
(१)	(२)		(३)	
			रुपये	
१	कुशल	७,७००	७,४००	७,१००
२	अर्धकुशल	७,०००	६,७००	६,४००
३	अकुशल	६,५००	६,२००	५.९००

स्पष्टीकरण.—या अधिसूचनेच्या प्रयोजनार्थ,—

(ए) **परिमंडळ एक.**—सर्व महानगरपालिकांचे क्षेत्र, छावणी क्षेत्र तसेच महानगरपालिका क्षेत्रापासूनचे वीस किलोमीटर पर्यंतचे औद्योगिक क्षेत्र ;

(बी) **परिमंडळ दोन.**—अ, ब व क वर्ग नगरपरिषद क्षेत्र तसेच नगरपरिषद क्षेत्रापासून २० किलोमीटर पर्यंतचे औद्योगिक क्षेत्र ;

(सी) **परिमंडळ तीन.**—परिमंडळ १ व २ समोर दर्शविलेले क्षेत्र वगळून राज्याच्या उर्वरित क्षेत्रांचे मिळून होईल ;

(डी) रोजंदारीवर काम करणाऱ्या कामगारांना देय असलेले मजुरीचे किमान दर तो कामगार ज्या वर्गाचा असेल त्या वर्गासाठी निश्चित करण्यात आलेल्या मासिक मजुरीच्या दरांना २६ ने भागून येणारा भागाकार नजिकच्या पैशांपर्यंत पूर्णांकात करून काढण्यात येईल ;

(इ) अर्धवेळ काम करणाऱ्या कामगारांना देय असलेल्या प्रति तास किमान वेतनाचा दर तो कामगार ज्या वर्गवारीच्या असेल, त्या वर्गवारीच्या रोजंदारी किमान वेतनास ८ तासाने भागून व त्यात १५% वाढ करून तसेच येणारी रक्कम नजिकच्या पैशांपर्यंत पूर्णांकात परिवर्तित करण्यात येऊन काढण्यात येईल ;

(फ) किमान वेतन दरामध्ये साप्ताहिक सुट्टीच्या वेतनाचा समावेश असेल ;

(जी) किमान वेतन दरामध्ये मूळ दर, विशेष भत्ता आणि सवलती असल्यास त्याचे रोख मूल्य यासाठी अनुज्ञेय असलेल्या सर्व दरांचा समावेश असेल ;

(एच) एखादा कुशल कामगार म्हणजे जो स्वतःच्या निर्णय शक्तीनुसार आपले काम कार्यक्षमतेने व जबाबदारीने पार पाडू शकतो असा कामगार ;

(आय) अर्धकुशल कामगार म्हणजे सर्वसाधारणपणे नित्याच्या स्वरूपाचे काम करतो की, ज्यामध्ये निर्णय घेण्याची फारशी गरज नसते. परंतु तुलनेने त्याला दिलेले छोटेसे काम की, ज्यामध्ये महत्त्वाचे निर्णय इतरांकडून घेतले जातात असे काम योग्य रीतीने पार पाडण्याची आवश्यकता असते. मर्यादित व्याप्तीचे नित्याचे काम पार पाडणे हेच त्याचे कर्तव्य असते ;

(जे) अकुशल कामगार म्हणजे ज्यास लहानसा किंवा स्वतंत्र निर्णय घेणे आणि पूर्वानुभव असणे आवश्यक नाही. परंतु तरीही व्यावसायिक परिस्थितीची माहिती असणे आवश्यक आहे असे साध्या कर्तव्य पालनाचा अंतर्भाव असलेले काम करणारा कामगार म्हणून त्याच्या कामासाठी शारीरिक परिश्रमाशिवाय निरनिराळ्या वस्तुंची किंवा मालाची त्याला चांगली माहिती असणे आवश्यक असेल.

परिशिष्ट

महाराष्ट्र राज्यातील १० केंद्रांचा सरासरी ग्राहक मूल्य निर्देशांक (नवीन मालिका २००१-१००) हा उक्त अनुसूचित रोजगारात नोकरी करत असलेल्या कामगारांना लागू असलेल्या राहणीमान निर्देशांक असेल, महाराष्ट्र शासनाने नियुक्त केलेला सक्षम प्राधिकारी १ जानेवारी व १ जुलै रोजी सुरू होणाऱ्या प्रत्येक सहामाहीच्या समाप्तीनंतर त्या सहा महिन्यांसाठी उक्त कर्मचाऱ्यांना लागू असलेल्या राहणीमान निर्देशांकाची सरासरी काढील आणि १९६ निर्देशांकावर अशा प्रत्येक अंकाच्या वाढीसाठी ज्या सहामाहीच्या संबंधात अशी सरासरी काढण्यात आलेली असेल, त्या सहा महिन्यांलगत पुढील सहामाहीसाठी उक्त कर्मचाऱ्यांना देय असलेला विशेष भत्ता (यात यानंतर ज्याचा "राहणीमान भत्ता" असा निर्देश करण्यात आला आहे) सर्व परिमंडळाच्या संबंधित दरमहा रुपये २८.०० दराने असेल.

२. सक्षम प्राधिकारी, **शासकीय राजपत्रातील** अधिसूचनेद्वारे, उपरोक्त प्रमाणे हिशेब करून काढलेला राहणीमान भत्ता, जानेवारी ते जून या कालावधीतील प्रत्येक महिन्यासाठी देय असेल तेव्हा जानेवारी महिन्याच्या शेवटच्या आठवड्यामध्ये आणि जुलै ते डिसेंबर या कालावधीमधील प्रत्येक महिन्यासाठी देय असेल तेव्हा जुलै महिन्याच्या शेवटच्या आठवड्यामध्ये जाहीर करील :

परंतु सक्षम प्राधिकारी किमान वेतन निश्चित केल्याच्या दिनांकापासून देय असलेला राहणीमान भत्ता जून किंवा डिसेंबर अखेरपर्यंतच्या किंवा यथास्थिती, किमान वेतन दर निश्चित करण्यात आल्याच्या दिनांकानंतर लगेचच जाहीर करील.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

ज. आ. खवणेकर,
शासनाचे अवर सचिव.

In pursuance of clause (3) of article 348 of the Constitution of India the following translation in English of the Government Notification, No. MWA. 2013/54/CR-29/LAB-7, dated the 19th June 2013 published in the *Maharashtra Government Gazette,* Part I-L, Extra Ordinary is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

J. A. KHAVNEKAR,
Under Secretary to Government.

INDUSTRIES, ENERGY AND LABOUR DEPARTMENT

Madam Cama Road, Hutatma Rajguru Chowk, Mantralaya,
Mumbai 400 032, dated the 19th June 2013.

NOTIFICATION

MINIMUM WAGES ACT, 1948.

No. MWA. 2013/54/CR-29/LAB-7.—Whereas, by the Government Notification, Industries, Energy and Labour Department, No. MWA. 42003/CR-176/ Lab-7, dated the 9th February 2007, the Government of Maharashtra has revised the minimum rates of wages payable to the employees employed in any industry engaged in the Scheduled Employment, *viz*," Employment in any industry manufacturing Soaps and Cosmetics" (hereinafter referred to as "the said Scheduled Employment") in the State of Maharashtra ;

And whereas, the Government of Maharashtra, having reviewed the minimum rates of wages payable to the employees employed in the said scheduled employment, considers it necessary to revise them further.

Now, therefore, in exercise of the powers conferred by clause *(b)* of sub-section *(1)* of section 3 read with sub-section *(2)* of section 5 of the Minimum Wages Act, 1948 (11 of 1948), in its application to the State of Maharashtra, the Government of Maharashtra, after considering all the representations received by it in respect of the proposal published in the Government Notification, Industries, Energy and Labour Department No. MWA. 2011/9/CR-291/Lab-7, dated the 3rd March 2012, and after consulting the Advisory Board, hereby revises, with effect from 19th June 2013 the minimum rates of wages payable to the employees employed in the said scheduled employment and refixes them, as set out in column (3) of the Schedule appended hereto, as the minimum rates of wages payable to the class of employees mentioned against them in column (2) of the said Schedule :—

Schedule

Sr.No.	Class of Employees	Minimum rates of wages basic rates (per month) (in rupees)		
		Zone-I	Zone-II	Zone-III
(1)	(2)		(3)	
1.	Skilled	7,700	7,400	7,100
2.	Semi-skilled	7,000;	6,700	6,400
3.	Unskilled	6,500	6,200	5,900

Explanation .—For the purposes of this notification,—

(a) Zone-I.—shall comprise of the areas falling within the limits of all the Municipal Corporation, Cantonment areas and Maharashtra Industrial Development Corporation areas within twenty Kilometers radius from all Municipal Corporations Limits ;

(b) Zone-II.—shall comprise of the areas falling within the limits of all "A", "B" and " C " Grade Municipal Councils and the Maharashtra Industrial Development Corporation areas within twenty Kilometers radius from all " A ", " B " and " C " Grade Municipal Councils Limits ;

(c) Zone-III.—shall comprise of all other areas in the State not included in Zone I and Zone II ;

(d) the minimum rates of daily wages payable to an employee employed on daily wages shall be computed by dividing the minimum rates of monthly wages fixed for the class of employees to which he belongs by twenty six, the quotient being stepped upto the nearest *paisa ;*

(*e*) the minimum rates of hourly wages payable to part-time employee shall be computed by dividing the daily rates of minimum wages applicable to the concerned class of employees by eight hours with 15% rise in it and quotient being stepped upto the nearest *paisa ;*

(*f*) the minimum rates of wages shall be inclusive of payment of remuneration in respect of weekly day of rest ;

(g) the minimum rates of wages shall consist of basic rates, the cost of living allowance, the cash value of concessions, if any ;

(h) a skilled employee is one, who is capable of working efficiently, of exercising considerable independent judgement and discharging his duties responsibly ;

(i) a semi-skilled employee is one, who does work generally of a well defined routine nature, wherein the major requirement is not so much of the judgement, skills and dexterity, but of proper discharge of duties assigned to him for a relatively narrow job and important decisions are made by others. His work is thus limited to the performance of routine operation of limited scope ;

(j) an unskilled employee is one, who does operations that involve the performance of simple duties which require exercise of little or no independent judgement or previous experience, although a familiarity with the occupational environment is necessary. His work may thus require, in addition to physical exertion, familiarity with a variety of articles or goods.

APPENDIX

The average Consumer Price Index Number in respect of ten centres in the State of Maharashtra for working class (New Series 2001=100) shall be the Cost of Living Index Number applicable to the employees employed in the said scheduled employment. The Competent Authority appointed by the Government shall, after the expiry of every six months commencing on the first day of January and the first day of July, calculate the average of the Cost of Living Index Number applicable to the said employee for these six months and ascertain the rise of such average over 196 points. For such rise of every point, special allowance (hereinafter referred to as "the Cost of Living Allowance"), payable to the employee in the said scheduled employment for each of the six months immediately following six months in respect of which such average has been calculated at the rate of Rs. 28.00 per month in respect of all the zones.

2. The Cost of Living Allowance computed as aforesaid shall be declared by the Competent Authority, by notification in the *Official Gazette,* in the last week of July when such allowance is payable for each of the months from July to December and in the last week of January, when such allowance is payable for each of the months from January to June :

Provided that, the Competent Authority shall declare the Cost of Living Allowance payable in respect of the period from the date of fixation of the rate of minimum wages to the end of December or June, as the case may be, immediately after the said date with effect from which the minimum rates of wages are fixed.

By order and in the name of the Governor of Maharashtra,

J. A. KHAVNEKAR,
Under Secretary to Government.

६१

बुधवार, जून १९, २०१३/ज्येष्ठ २९, शके १९३५

उद्योग, ऊर्जा व कामगार विभाग

मादाम कामा रोड, हुतात्मा राजगुरु चौक, मंत्रालय,
मुंबई ४०० ०३२, दिनांक १९ जून २०१३.

अधिसूचना

किमान वेतन अधिनियम, १९४८.

क्रमांक किवेअ. २०१३/१८९/प्र.क्र. ८७/कामगार-७.—ज्याअर्थी, महाराष्ट्र राज्यातील " औषधिद्रव्ये व औषध बनविणाऱ्या कोणत्याही कारखान्यातील कामधंदा " या रोजगारात असलेल्या (यात यापुढे ज्याचा " उक्त अनुसूचित रोजगार " असा उल्लेख करण्यात आलेला आहे) कामगारांना देय असलेले किमान वेतन दर शासन अधिसूचना, उद्योग, ऊर्जा व कामगार विभाग, क्रमांक किवेअ. २२००३/प्र.क्र. १२५/कामगार-७, दिनांक ९ फेब्रुवारी २००७ अन्वये पुनर्निर्धारित केले आहेत ;

आणि ज्याअर्थी, महाराष्ट्र शासनाने पुनर्विलोकन करून उक्त अनुसूचित रोजगारातील कामगारांना देय असलेले किमान वेतन दर पुनर्निर्धारित करण्याचे ठरविले आहे.

त्याअर्थी, आता किमान वेतन अधिनियम, १९४८ (१९४८ चा ११) हा महाराष्ट्र राज्यास लागू करताना त्याच्या कलम ३ च्या पोट-कलम (१) चा खंड (ब) आणि कलम ५ च्या पोट-कलम (२) याद्वारे प्रदान करण्यात आलेल्या अधिकारांचा वापर करून महाराष्ट्र शासन, शासकीय अधिसूचना, उद्योग, ऊर्जा व कामगार विभाग, क्रमांक किवेअ. २०११/प्र.क्र. २९०/कामगार-७, दिनांक २८ मार्च २०१२ मध्ये प्रसिद्ध झालेल्या प्रस्तावाच्या संबंधात मिळालेली सर्व अभिवेदने विचारात घेतल्यानंतर आणि सल्लागार मंडळाचा सल्ला विचारात घेतल्यानंतर महाराष्ट्र शासन याद्वारे दिनांक १९ जून २०१३ पासून उक्त अनुसूचित रोजगारात नोकरीत असलेल्या खालील अनुसूचिच्या स्तंभ (२) मध्ये नमूद केलेल्या कामगारांच्या वर्गाला त्या अनुसूचिच्या स्तंभ (३) मध्ये नमूद केल्याप्रमाणे वेतनाचे किमान वेतन दर पुनर्निर्धारित करीत आहे :—

अनुसूची

अ.क्र.	कामगारांची वर्गवारी	मूळ किमान वेतन दर (दरमहा रुपये)		
		परिमंडळ-१	परिमंडळ-२	परिमंडळ-३
(१)	(२)		(३)	
१	कुशल	७,७००	७,४००	७,२००
२	अर्धकुशल	७,०००	६,७००	६,५००
३	अकुशल	६,५००	६,२००	६,०००

स्पष्टीकरण.—या अधिसूचनेच्या प्रयोजनार्थ,—

(ए) **परिमंडळ एक.**—महाराष्ट्र शासनाच्या नगरविकास विभागाच्या शासन निर्णय क्र. संकिर्ण. १००५/वर्गीकरण/प्र.क्र. ३७९/ ०५/नवि-२४, दिनांक ४ मे २००६ अन्वये घोषित केलेले महाराष्ट्र राज्यातील अ, ब, क व ड महानगरपालिकांचे क्षेत्र, छावणी क्षेत्र तसेच महानगरपालिका क्षेत्रांपासून २० किलोमीटर पर्यंतचे औद्योगिक क्षेत्र ;

(बी) **परिमंडळ दोन.**—महाराष्ट्र राज्यातील अ, ब व क वर्ग नगरपरिषद क्षेत्र, तसेच नगरपरिषद क्षेत्रापासून २० किलोमीटर पर्यंतचे औद्योगिक क्षेत्र ;

(सी) **परिमंडळ तीन.**—परिमंडळ १ व २ समोर दर्शविलेले क्षेत्र वगळून उर्वरित सर्व क्षेत्र ;

(डी) रोजंदारीवर काम करणाऱ्या कामगारांना देय असलेले मजुरीचे किमान दर तो कामगार ज्या वर्गाचा असेल त्या वर्गासाठी निश्चित करण्यात आलेल्या मासिक मजुरीच्या दरांना २६ ने भागून येणारा भागाकार नजिकच्या पैशांपर्यंत पूर्णांकात करून काढण्यात येईल ;

(इ) अर्धवेळ काम करणाऱ्या कामगारांना देय असलेल्या प्रति तास किमान वेतनाचा दर तो कामगार ज्या वर्गवारीचा असेल, त्या वर्गवारीच्या रोजंदारी किमान वेतनास ८ (तास) ने भागून व त्यात १५% वाढ करून तसेच येणारी रक्कम नजिकच्या पैशापर्यंत पूर्णांकात परिवर्तित करण्यात येऊन काढण्यात येईल ;

(फ) किमान वेतन दरामध्ये साप्ताहिक सुट्टीच्या वेतनाचा समावेश असेल ;

(जी) किमान वेतन दरामध्ये मूळ दर, विशेष भत्ता आणि सवलती असल्यास त्याचे रोख मूल्य यासाठी अनुज्ञेय असलेल्या सर्व दरांचा समावेश असेल ;

(एच) एखादा कुशल कामगार म्हणजे जो स्वतःच्या निर्णय शक्तीनुसार आपले काम कार्यक्षमतेने व जबाबदारीने पार पाडू शकतो असा कामगार ;

(आय) अर्धकुशल कामगार म्हणजे सर्वसाधारणपणे नित्याच्या स्वरूपाचे काम करतो की, ज्यामध्ये निर्णय घेण्याची फारशी गरज नसते. परंतु तुलनेने त्याला दिलेले छोटेसे काम की, ज्यामध्ये महत्त्वाचे निर्णय इतरांकडून घेतले जातात असे काम योग्य रीतीने पार पाडण्याची आवश्यकता असते. मर्यादित व्याप्तीचे नित्याचे काम पार पाडणे हेच त्याचे कर्तव्य असते ;

(जे) अकुशल कामगार म्हणजे ज्यास लहानसा किंवा स्वतंत्र निर्णय घेणे आणि पूर्वानुभव असणे आवश्यक नाही. परंतु तरीही व्यावसायिक परिस्थितीची माहिती असणे आवश्यक आहे असे साध्या कर्तव्य पालनाचा अंतर्भाव असलेले काम करणारा कामगार म्हणून त्याच्या कामासाठी शारीरिक परिश्रमाशिवाय निरनिराळ्या वस्तूंची किंवा मालाची त्याला चांगली माहिती असणे आवश्यक असेल.

परिशिष्ट

महाराष्ट्र राज्यातील १० केंद्रांचा सरासरी ग्राहक मूल्य निर्देशांक (नवीन मालिका २००१-१००) हा उक्त अनुसूचित रोजगारात नोकरी करत असलेल्या कामगारांना लागू असलेल्या राहणीमान निर्देशांक असेल, महाराष्ट्र शासनाने नियुक्त केलेला सक्षम प्राधिकारी १ जानेवारी व १ जुलै रोजी सुरू होणाऱ्या प्रत्येक सहामाहीच्या समाप्तीनंतर त्या सहा महिन्यांसाठी उक्त कर्मचाऱ्यांना लागू असलेल्या राहणीमान निर्देशांकाची सरासरी काढील आणि १९६ निर्देशांकावर अशा प्रत्येक अंकाच्या वाढीसाठी ज्या सहामाहीच्या संबंधात अशी सरासरी काढण्यात आलेली असेल, त्या सहा महिन्यांलगत पुढील सहामाहीसाठी उक्त कर्मचाऱ्यांना देय असलेला विशेष भत्ता (यात यानंतर ज्याचा राहणीमान भत्ता असा निर्देश करण्यात आला आहे) सर्व परिमंडळाच्या संबंधित दरमहा रुपये २८.०० दराने असेल.

२. सक्षम प्राधिकारी, **शासकीय राजपत्रातील** अधिसूचनेद्वारे, उपरोक्त प्रमाणे हिशेब करून काढलेला राहणीमान भत्ता, जानेवारी ते जून कालावधीतील प्रत्येक महिन्यासाठी देय असेल तेव्हा जानेवारी महिन्याच्या शेवटच्या आठवड्यामध्ये आणि जुलै ते डिसेंबर या कालावधीमधील प्रत्येक महिन्यासाठी देय असेल तेव्हा जुलै महिन्याच्या शेवटच्या आठवड्यामध्ये जाहीर करील :

परंतु सक्षम प्राधिकारी किमान वेतन निश्चित केल्याच्या दिनांकापासून देय असलेला राहणीमान भत्ता जून किंवा डिसेंबर अखेरपर्यंतच्या किंवा यथास्थिती, किमान वेतन दर निश्चित करण्यात आल्याच्या दिनांकापासून लगेचच जाहीर करील.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

ज. आ. खवणेकर,
शासनाचे अवर सचिव.

In pursuance of clause (3) of article 348 of the Constitution of India, the following translation in English of the Government Notification, No. MWA. 2013/189/CR-87/LAB-7, dated the 19th June 2013 published in the *Maharashtra Government Gazette,* Part I-L, Extra-ordinary is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

J. A. KHAVNEKAR,
Under Secretary to Government.

INDUSTRIES, ENERGY AND LABOUR DEPARTMENT

Madam Cama Road, Hutatma Rajguru Chowk, Mantralaya,
Mumbai 400 032, dated the 19th June 2013.

NOTIFICATION

MINIMUM WAGES ACT, 1948.

No. MWA. 2013/189/CR-87/LAB-7.—Whereas, by the Government Notification, Industries, Energy and Labour Department, No. MWA. 22003/CR-125/ Lab-7, dated the 9th February 2007, the Government of Maharashtra has revised the minimum rates of wages payable to the employees employed in the Scheduled Employment, *viz*. " Employment in any industry Manufacturing Drugs and Pharmaceuticals " (hereinafter referred to as "the said scheduled employment") in the State of Maharashtra ;

And whereas, the Government of Maharashtra, having reviewed the minimum rates of wages payable to the employees employed in the said scheduled employment, considers it necessary to revise them further.

Now, therefore, in exercise of the powers conferred by clause *(b)* of sub-section *(1)* of section 3 read with sub-section *(2)* of section 5 of the Minimum Wages Act, 1948 (11 of 1948), in its application to the State of Maharashtra, the Government of Maharashtra, after considering all the representations received by it in respect of the proposal published in the Government Notification, Industries, Energy and Labour department No. MWA. 2011/CR-290/Lab-7, dated the 28th March 2012, and after consulting the Advisory Board, hereby revises, with effect from 19th June 2013, the minimum rates of wages payable to the employees employed in the said scheduled employment and refixes them, as set out in column (3) of the Schedule appended hereto, as the minimum rates of wages payable to the class of employees mentioned against them in column (2) of the said Schedule :—

Schedule

Sr.No.	Class of Employees	Minimum rates of wages (per month basic rates in rupees)		
		Zone-I	Zone-II	Zone-III
(1)	(2)		(3)	
			(Rs.)	
1	Skilled	7,700	7,400	7,200
2	Semi-skilled	7,000	6,700	6,500
3	Unskilled	6,500	6,200	6,000

Explanation.—For the purposes of this notification,—

(a) Zone-I.—shall comprise of the areas falling within the limits of all ' A ', ' B ', ' C ' and ' D ' class Municipal Corporations, as so declared by the Government of Maharashtra *vide* Government Resolution, Urban Development Department, No. Sankirna. 1005/vargikaran/ C.R. 379/05/Navi-24, dated the 4th May 2006, cantonment areas and Industrial areas within 20 Kilometers radius from all Municipal Corporation limit ;

(b) Zone-II.—shall comprise of the areas falling within the limits of all ' A ', ' B ' and ' C ' Grade Municipal Councils and Industrial areas within 20 Kilometers radius from all Municipal Council limit ;

(c) Zone-III.—shall comprise of all other areas in the State not included in Zone-I and Zone-II ;

(d) the minimum rates of daily wages payable to an employee employed on daily wages shall be computed by dividing the minimum rates of monthly wages fixed for the class of employees to which he belongs by twenty six, the quotient being stepped upto the nearest *paisa ;*

(*e*) the minimum rates of hourly wages payable to part-time employee shall be computed by dividing the daily rates of minimum wages applicable to the concerned class of employees by eight (hours) with 15% rise in it and quotient being stepped upto the nearest *paisa ;*

(*f*) the minimum rates of wages shall be inclusive of payment of remuneration in respect of weekly day of rest ;

(g) the minimum rates of wages shall consist of basic rates, the cost of living allowance, the cash value of concessions, if any ;

(h) a skilled employee is one, who is capable of working efficiently, exercising considerable independent judgment and discharging his duties responsibly ;

(i) a semi-skilled employee is one, who does work generally of a well defined routine nature, wherein the major requirement is not so much of the judgement, skills and dexterity, but of proper discharge of duties assigned to him for a relatively narrow job and important decisions are made by others. His work is thus limited to the performance of routine operation of limited scope ;

(j) an unskilled employee is one, who does operations that involve the performance of simple duties which require exercise of little or no independent judgment or previous experience, although a familiarity with the occupational environment is necessary. His work may thus require, in addition to physical exertion, familiarity with a variety of articles or goods.

APPENDIX

The average Consumer Price Index Number in respect of ten centres in the State of Maharashtra for working class (New Series 2001=100) shall be the Cost of Living Index Number applicable to the employee employed in the said scheduled employment. The Competent Authority appointed by the Government shall, after the expiry of every six months commencing on the first day of January and the first day of July, calculate the average of the Cost of Living Index Number applicable to the said employee for these six months and ascertain the rise of such average over 196 points. For such rise of every point, special allowance (hereinafter referred to as "the Cost of Living

Allowance"), payable to the employee in the said scheduled employment for each of the six months immediately following six months in respect of which such average has been calculated at the rate of Rs. 28.00 per month in respect of all the zones.

2. The Cost of Living Allowance computed as aforesaid shall be declared by the Competent Authority, by notification in the *Official Gazette,* in the last week of July when such allowance is payable for each of the months from July to December and in the last week of January, when such allowance is payable for each of the months from January to June :

Provided that, the Competent Authority shall declare the Cost of Living Allowance payable in respect of the period from the date of fixation of the rate of minimum wages to the end of December or June, as the case may be, immediately after the said date with effect from which the minimum rates of wages are fixed.

By order and in the name of the Governor of Maharashtra,

J. A. KHAVNEKAR,
Under Secretary to Government.

६२

गुरुवार, जून २०, २०१३/ज्येष्ठ ३०, शके १९३५

उद्योग, ऊर्जा व कामगार विभाग

मादाम कामा रोड, हुतात्मा राजगुरू चौक, मंत्रालय, मुंबई ४०० ०३२, दिनांक २० जून २०१३.

अधिसूचना

मुंबई औद्योगिक संबंध अधिनियम, १९४६.

क्रमांक मुंऔसं. ६२०१३/प्र.क्र. १३५/कामगार-२.—मुंबई औद्योगिक संबंध अधिनियम, १९४६ (१९४७ चा अकरा) याच्या कलम ९ अन्वये प्रदान करण्यात आलेल्या अधिकारांचा वापर करून तसेच मा. महाप्रबंधक, उच्च न्यायलय, मुंबई यांची अधिसूचना क्रमांक ए-३९०२/२०१३, दिनांक १६ मे २०१३ या अधिसूचनेस अनुसरून महाराष्ट्र शासन याद्वारे खाली नमूद केलेल्या न्यायिक अधिकाऱ्यांची न्यायाधीश, कामगार न्यायालय या पदावर पुढीलप्रमाणे नियुक्ती करीत आहे :—

अ. क्र.	न्यायाधिशाचे नाव व सध्याचे पदनाम	कोणाच्या जागी	सदस्याचे नाव व नवीन पदनाम	शासन अधिसूचना क्रमांक
(१)	(२)	(३)	(४)	(५)
१	श्रीमती राव पी. एन. ३ रे सहदिवाणी न्यायाधीश, वरिष्ठ स्तर आणि अतिरिक्त मुख्य न्यायदंडाधिकारी, अहमदनगर.	श्री. बी. सी. कांबळे.	श्रीमती राव पी. एन. न्यायाधीश, १ ले कामगार न्यायालय, कोल्हापूर.	बीआयआर.१०८१/५२०३/ कामगार-९, दिनांक १६ जानेवारी १९८१.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

सं. धों. डगळे,
कार्यासन अधिकारी.

In pursuance of Clause (3) of Article 348 of the Constitution of India, the following translation in English of the Government Notification, Industries, Energy and Labour Department, No. BIR- 62013/CR-135//LAB-2, dated the 20th June 2013, Extra-ordinary, is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

S. K. GAWADE,
Deputy Secretary to Government.

INDUSTRIES, ENERGY AND LABOUR DEPARTMENT

Madam Kama Road, Hutatma Rajguru Chowk, Mantralaya,
Mumbai 400 032, dated the 20th June 2013.

NOTIFICATION

BOMBAY INDUSTRIAL RELATIONS ACT, 1946.

No. BIR. 62013/CR-135/LAB-2.—In exercise of the powers conferred by section 9 of the Bombay Industrial Relations Act, 1946 (11 of 1947) and with reference to the Registrar General, High Court, Bombay, Notification No. A-3902/2013, dated 16th May 2013. The Government of Maharashtra hereby appoints the following Judicial Officers as Judge of Labour Courts :—

Sr. No.	Judge's Name and Present Designation	On Whose place	Judge's Name and New Designation	Government Notification No.
(1)	(2)	(3)	(4)	(5)
1	Smt. Rao P. N. 3rd Joint Civil Judge, Senior Division and Additional Chief Judicial Magistrate, Ahmednagar.	Shri B. C. Kamble.	Smt. Rao P. N. Judge, 1st Labour Court, Kolhapur.	BIR. 1081/5203/Lab-9, dated 16th January 1981.

By order and in the name of the Governor of Maharashtra,

S. D. DAGALE,
Desk Officer.

ON BEHALF OF GOVERNMENT PRINTING, STATIONERY AND PUBLICATION, PRINTED AND PUBLISHED BY SHRI PARSHURAM JAGANNATH GOSAVI, PRINTED AT GOVERNMENT CENTRAL PRESS, 21-A, NETAJI SUBHASH ROAD, CHARNI ROAD, MUMBAI 400 004 AND PUBLISHED AT DIRECTORATE OF GOVERNMENT PRINTING, STATIONERY AND PUBLICATION, 21-A, NETAJI SUBHASH ROAD, CHARNI ROAD, MUMBAI 400 004, EDITOR : SHRI PARSHURAM JAGANNATH GOSAVI.